

THE CITIZEN'S LIBRARY OF ECONOMICS,
POLITICS AND SOCIOLOGY—*NEW SERIES*

EDITED BY RICHARD T. ELY, PH.D., LL.D.
PROFESSOR OF ECONOMICS IN THE UNIVERSITY OF WISCONSIN

NON-PARTISAN LEAGUE

THE CITIZEN'S LIBRARY OF ECONOMICS,
POLITICS AND SOCIOLOGY—*NEW SERIES*

EDITED BY RICHARD T. ELY, PH.D., LL.D.
PROFESSOR OF ECONOMICS IN THE UNIVERSITY OF WISCONSIN

NEW SERIES

The Progressive Movement.

By Benjamin P. DeWitt, M.A., LL.B.

The Social Problem.

By Charles A. Ellwood, Ph.D.

The Wealth and Income of the People of the United States

By Wilford I. King, Ph.D.

The Foundations of National Prosperity.

By Richard T. Ely, Ph.D., LL.D.; Ralph H. Hess, Ph.D.;
Charles K. Leith, Ph.D.; Thomas Nixon Carver, Ph.D.,
LL.D.

The World War and Leadership in a Democracy.

By Richard T. Ely, Ph.D., LL.D.

Budget Making in a Democracy.

By Major Edward A. Fitzpatrick.

The Vision for Which We Fought.

By A. M. Simons, B.L.

City Manager in Dayton.

By Chester E. Rightor, B.A.

The Marketing of Whole Milk.

By Harry E. Erdman, Ph.D.

The Non-Partisan League.

By Andrew A. Bruce, A.B., LL.B.

Popular Government.

By Arnold B. Hall, B.A., J.D.

NON-PARTISAN LEAGUE

BY
ANDREW A. ^{Alexander}BRUCE, A.B., LL.B.

PROFESSOR OF LAW IN THE UNIVERSITY OF MINNESOTA,
AND FORMERLY CHIEF JUSTICE OF THE SUPREME
COURT OF THE STATE OF NORTH DAKOTA

New York
THE MACMILLAN COMPANY
1921

All rights reserved

PRINTED IN THE UNITED STATES OF AMERICA

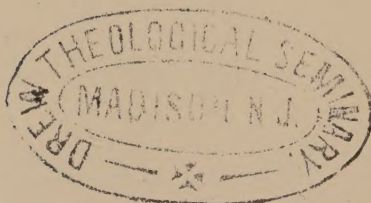
322.30973

B886n

COPYRIGHT, 1921,

By THE MACMILLAN COMPANY

Set up and printed. Published June, 1921.



Press of
J. J. Little & Ives Company
New York, U. S. A.

8 0 21P

To

THE MEN AND WOMEN OF NORTH DAKOTA
WHO FEARLESSLY AND WITHOUT THOUGHT OF GAIN
HAVE FOUGHT FOR THE FAITH WHICH ALONE
HAS MADE AMERICA

137143

CONTENTS

CHAPTER	PAGE
I. THE NON-PARTISAN LEAGUE	I
II. NORTH DAKOTA—NEITHER POVERTY NOR ILLITERACY THE CAUSE OF THE REVOLUTION	18
III. THE CAUSES OF UNREST—THE FOREIGN AUTOCRACY AND THE THRONE ROOM AT ST. PAUL	23
IV. THE REVOLUTION OF 1906	28
V. THE STRUGGLE FOR ECONOMIC INDEPENDENCE	34
VI. THE TERMINAL ELEVATOR AND THE LEGISLATIVE SESSION OF 1915	54
VII. THE LEAGUE AND ITS SOCIALIST LEADERSHIP	60
VIII. THE FINANCING OF THE NON-PARTISAN LEAGUE	71
IX. THE LEAGUE'S SUBVERSION OF THE PRIMARY SYSTEM AND THE CONSERVATIVE VALUE OF THE INITIATIVE AND THE REFERENDUM	75
X. THE LEAGUE'S LEGISLATIVE AND CONSTITUTIONAL PROGRAM	88
XI. THE LEAGUE AND PUBLIC EDUCATION	106
XII. THE BOARD OF REGENTS' CASE AND THE STATE UNIVERSITY	113
XIII. THE SCHOOL FUNDS	117
XIV. THE SEIZURE OF THE COAL MINES	130
XV. THE NON-PARTISANS AND THE I. W. W.	140
XVI. THE NON-PARTISAN LEAGUE AND THE LABOR UNIONS . . .	145
XVII. THE LEAGUE AND THE WORLD'S WAR	152
XVIII. TERRORISTIC POLICIES OF THE NEW AUTOCRACY	164
XIX. THE LEAGUE AND THE COURTS	170
XX. THE SUPREME COURT AND THE SCANDINAVIAN-AMERICAN BANK CASE	185
XXI. THE YOUMANS BANK CASE AND THE SUPREME TEST OF GOVERNMENT	190

CHAPTER	PAGE
XXII. THE PROOF OF THE PUDDING AND THE REVOLUTION WITHIN THE REVOLUTION	199
XXIII. THE NEW REVOLUTION AND THE PRIMARIES OF 1920 . . .	212
XXIV. THE GENERAL ELECTIONS OF NOVEMBER, 1920 . . .	216
XXV. AN ATTEMPT AT A COMPROMISE	225
XXVI. THE FAILURE OF FURTHER ATTEMPTS AT A COMPROMISE AND THE LEGISLATIVE SESSION OF 1921	235
XXVII. THE AFTERMATH—THE COÖPERATIVE MOVEMENT . . .	245
XXVIII. COÖPERATION AND STATE AND NATIONAL AID	250
XXIX. A THINKING DEMOCRACY—A GOVERNMENT BY LAW AND NOT BY TEMPORARY MAJORITIES	266

NON-PARTISAN LEAGUE

NON-PARTISAN LEAGUE

CHAPTER I

THE NON-PARTISAN LEAGUE

THE so-called Non-partisan movement first assumed definite form in the state of North Dakota in February 1915. It is now nation-wide in its scope and in its ambition. To some casual observers it is merely a more or less interesting social and economic experiment which they are perfectly willing shall be tried at the expense of the people of states other than their own. To some it is a harmless class obsession—a disease which, like the measles, must be allowed to run its course. To others it is an object of sympathy because they erroneously look upon it as a peasant or tenant farmer uprising.¹ Still others regard it as having been from the beginning a popular and deliberate attempt to bring about an era of state and national socialism. To yet others it is merely a skilfully organized and conducted political movement which has capitalized not only the economic and political discontent of the farming and laboring classes, but of the discontented generally, and this not that the farmer or the laboring man may be benefited, but that a self-chosen

¹ Certainly tenant farming cannot be the cause of the discontent either in North Dakota or in Minnesota, for in 1910 only 14.3 per cent of the farms in North Dakota were tilled by tenants and in Minnesota only 21 per cent, while in Iowa where the League has made but little headway the tenant farmers numbered 37.8 per cent. Fifty-two per cent of the farmers in Texas were tenants and in Oklahoma the number was 54 per cent.

few may obtain political power. But to the more thoughtful and careful observers it is a political movement which was promoted at first for the gratification of personal ambition and the attainment of personal ends, but which was soon captured by the American socialist hierarchy who are now seeking to make it the entering wedge for the attainment of a socialist America. To these observers the voice is the voice of A. C. Townley, and the hands are the hands of the American International.

The Non-partisan League or movement presents many strange contradictions. Its political bedchambers contain many strange bedfellows, and in them the lion and the lamb may truthfully be said to lie down together. Originally it was a movement ostensibly for the betterment of the condition of the farming classes. It was a protest against unfair grain grading, trading in options, and the control of the grain and cattle markets of the Northwest by the chambers of commerce and business interests of Minneapolis, Chicago and Duluth. Now its program and its protest is much more comprehensive, and North Dakota has become the home center and the source of moneys and supplies for a nation-wide campaign for the creation of a new political party which shall be founded upon discontent and whose ultimate object, besides bettering the political and financial fortunes of its leaders, shall be the destruction of the middleman, the industrial entrepreneur and the so-called capitalistic classes, and even the destruction of the private ownership in land itself.

Economically, and thus far developed, the program of the League hardly involves state or national socialism. Being of farmer origin, it does not as yet include the nationalization of land. It is, however, state socialism

as far as the farmers' interests dictate, coupled with legislation for the protection of working-men and the betterment of the working conditions in the factories and in the mines, though not upon the farms. With a few exceptions it is enthusiastically supported by the socialist leaders because they look upon it as an entering wedge and believe that the nationalization of land must soon follow.² It is supported by the laboring-man of the cities

² In two letters, the originals of which are on file in the rooms of the Minnesota State Historical Society at St. Paul, a member of the League, William C. Rempfer of Parkston, South Dakota, says:

"The League was organized by former members of the socialist party, but it is dominated at present by farmers from the rank and file of the membership of the League. When you realize that the League program is a segment of the pure socialistic doctrine, you will see that it is not strange that socialists organized the League, or that it is at present dominated by socialists.

"The League organizers, or at least most of them, are strict Marxians and believe in the dictatorship of the proletariat.

"I do not believe the socialists are sacrificing principle in working through the League. They are simply adopting different tactics, always keeping in view the socialist aim, namely, the establishment of the coöperative commonwealth.

"It seems to be the socialist attitude toward the land question, the world over, that the land must be nationalized in some form or other.

"The socialists of this country would nationalize the land, allowing individuals to work it with their own tools, not being allowed to use hired labor, however.

"As far as the sale of the output is concerned, the central government would have to fix the price, because it would be the only purchaser and distributor of farm produce."

At the convention of the Committee of Forty-eight, which was held in Chicago in July, 1920, for the purpose of organizing a new political party, O. M. Thomason, who claimed to represent the Non-partisan League of South Dakota and who at one time was a paid organizer in the State of North Dakota, stated of this platform, that:

"We just adopted a little resolution favoring state-owned grain warehouses, and now we have state-owned warehouses, mills, elevators and banks—and we weren't socialists like our friends here," pointing at Victor Berger.

"We didn't make any promises. We just passed laws. We stole the Republicans in that and they have been a good party ever since. The Republican party in North Dakota is now running true to the form of its original days. Nobody can get anywhere in North Dakota if he opposes the Non-partisan program.

"This is the greatest opportunity the American people have ever had.

"The soviets have set us a good example."

because he has a city or trade class conscience and cares nothing for the farm laborer, and because in his distrust of the manufacturer and the middleman, and often in his desire for a soviet control of industry, he fails to sense the danger of a junkerdom and the fact that \$3 a bushel wheat must inevitably result in a fifteen cent loaf of bread.

Its socialistic leadership is tolerated and its socialistic tendency is overlooked by the naturally conservative and (except where his own interests can be subserved) anti-socialist farmer, because he thinks that he sees in it the means of obtaining his present ends; and because in the past the terms socialist and anarchist have so often been misused and the cry of wolf so often raised, that he has become suspicious of the conservative critic and has long since ceased to be afraid of names.

As far as North Dakota is concerned, and as thus far developed, the program involves state-owned grain elevators, warehouses, flour mills, packing houses, cold-storage plants, creameries, stockyards, cheese factories, a state-owned bank, a large extension of rural credits, a home building scheme, state hail and fire insurance, the exemption of farm improvements from taxation, employers' liability acts, and compulsory state insurance, which, however, shall not be applicable to the farms or to the railroads; and generally speaking, the destruction of the middleman. It is an attempt to gain for the farmer the highest possible price for all that he has to sell, and the lowest possible price for all that he has to buy, together with the lowest possible rate of taxation. In order, however, that the movement may become national in scope and gain political support in the mining and manufacturing states, it contains a promise to do practically all that labor demands, with the one exception of

standing behind and promoting the movement for the eight-hour labor day which the farmer fears may become contagious and may later be extended to agricultural labor.

As a political movement it is an attempt to capitalize politically the present unrest of the farmer, the present unrest of the laboring-man, the present general unrest and distrust of government and of those in authority and the present general prejudice against organized capital; and, by promising relief to all, to organize discontent and to make it serve both as a present avenue to political power for its leaders and as an entering wedge for a communistic America.

The League was originally a farmers' league. Now, however, an attempt is being made to form a national organization which shall include all producers, it being strictly understood, however, that though for political purposes the votes of all are earnestly solicited, the benefits shall alone belong to those that toil with their hands. It is a sort of modern Knights of Labor, organized by farmers, allying itself with the laboring-man of the cities and the mines, and even with the members of the Industrial Workers of the World, and appealing to the discontented of all classes for its sustenance and its support.

"Realizing," says a recent circular of the League, "that the world as never before, needs united political action by the common people, whereby justice may be allotted to all; and

"Realizing that corporate interests are building an autocracy, based on the power of wealth, that is dictating our laws, and assuming control of our government; and

"Realizing that the electoral strength of the nation rests in the hands of the common people, and that the

safety of our nation and peace, prosperity and happiness, lies in their honest and earnest political efforts; and

"Knowing from experience the impossibility of organizing a new party that can be of any force or even promise successful results that will relieve the present deplorable conditions;

"Therefore we pledge ourselves to work for and vote a program consistent with the needs of the people.

"Present conditions demand immediate results. A few years more and only a bloody revolution will accomplish what our ballots can do now. A leader must be chosen who will be true to the ideals of democracy. A presidential candidate must be chosen who will prove equal to the great responsibility. There is a man who has been tested and found worthy, who has the respect and confidence of all the people, Lynn J. Frazier, Governor of the State of North Dakota.

"Having decided upon the necessity of political action, it remains for the people to get club-organization in every town, city, village, hamlet, and precinct in the nation. Its success means our very existence. Not only must we get endorsement, but we must force the adoption of such a platform as will be for the best interests of all the people.

"There is but one way to win. We must build our clubs so strong that we can control the national convention. True this is a great undertaking, but we are a great body of common people and can gain all we desire if we stick together, realize the fact that the common people exceed in voting-strength all the combined forces of the opposition, and with us the interest of one is the interest of all, and in organization lies our strength."³

³ Recently it has been claimed that this circular and this nomination of Governor Frazier for the presidency were the work of but a small

The movement started with an attempt to control the price and the marketing of grain. Now it has been turned by a socialist leadership into a movement for state socialism in all things except in farm land. It even threatens that land by a single tax provision, and if the laboring-man and the landless gain control, it is quite clear that an attempt will be made to include land also. It is indeed a significant fact that in July, 1918, the County Commissioners of Bowman County, North Dakota, passed a resolution favoring state ownership of land, and that not only have the socialists of North Dakota deserted their party to such an extent that it no longer has a place on the printed ballot,⁴ but the legislation of the League has been applauded by the leading socialist papers as an entering wedge towards their millennium.⁵

body of men and were not indorsed or promoted by the leaders of the League. The denial, however, has come so late that we are quite sure that both the issuance of the circular and the candidacy were at first fully sanctioned and that the repudiation was due to a later belief that after all the most important consideration was the continued control of the State of North Dakota, and that the popularity of Governor Frazier in that state made his candidacy for a third term imperative.

⁴In 1912 the Socialist vote for governor of North Dakota was 6,834, in 1914 it was 6,019, in 1916, and immediately after the organization of the League it sank to 2,615. Since that time the party has had no place on the printed ballot and no state ticket in the field. Its leaders and organizers have deserted it for the new organization. Among those leaders and organizers are Townley himself and J. Arthur Williams who at one time was the assistant editor of the Socialist organ *The Iconoclast* and who was the party's candidate for governor in 1914. In 1915 Williams was one of the League's first paid organizers.

⁵The *Appeal to Reason*, a well-known socialist paper, said:

"This paper feels particularly gratified and self congratulatory over the legislative program announced by the Non-Partisan League representatives who control the state government of North Dakota. This radical program includes the very things the *Appeal* has been fighting for; incidentally it was prepared with the advice of an *Appeal* man, Walter Thomas Mills, the well-known socialist lecturer, who conducted correspondence courses for the readers of the *Appeal* and who has for years been a contributor to the columns of this paper.

In September, 1917, the socialist New York *Call* said:

"If they are mad, we want to see them bite the agriculturists of all other states and infect them, too. We do not look upon their efforts as a competitor or rival of socialism, but a movement converging on the

In the spring of 1920 the Non-partisan League of North Dakota had probably some fifty thousand members. The National Non-partisan League into which the local organization has now been merged, had probably two hundred and thirty thousand members and operated in the states of North Dakota, Minnesota, Wisconsin, South Dakota, Idaho, Montana, Washington, Nebraska, Kansas, Iowa, Oklahoma, Colorado, Texas, and Oregon.⁶

same road, and with the same object—the abolition of the profiteer. They are clear on that point. And while they remain clear on it—and the farmer is anything but a fool—we shall indulge in no envious feelings if they send a score of their representatives to Congress before we do. Nor do we care much about the name. While their main object remains the extirpation of the profit system, they are socialists, whatever other name they may call themselves, and are working for the realization of socialism.

"We extend fraternal greetings to the farmers of North Dakota. They are, at last, on the right track, and we sincerely hope they will show the way to millions of other robbed and exploited tillers of the soil."

⁶ Colorado	14,666
Idaho	11,549
Iowa	2,427
Kansas	5,210
Minnesota	54,813
Montana	22,007
Nebraska	15,482
North Dakota	50,509
Oklahoma	2,520
South Dakota	26,067
Texas	2,703
Washington	10,342
Wisconsin	14,290
Miscellaneous	232,585
	234,659

In studying this table it must be remembered that the League works on the theory that once a man is a member he is always a "prospect" at least. Nobody is dropped from the books who has once sent in a check for membership. He may think he has "quit the League," but he is carried along as a member, delinquent perhaps, but still a possibility.

It will also be noted from the foregoing table, that in North Dakota the League has 50,509 members. The vote for Governor Frazier at the 1920 primary was approximately 55,000. This means that the total

It is now seeking to gain a foothold in other states, in some as a laboring-man's, and in others as a farmer's party. It is especially strong in the states of North Dakota, Minnesota, Wisconsin, and Montana. It would perhaps have been equally strong in the State of South Dakota if the office-holders and politicians of both the Republican and Democratic parties had not in 1917, and in fear of the new party, brought about the adoption of constitutional amendments, and, in their platforms at any rate, favored the passage of measures which were as radical as those originally proposed by the Non-partisans themselves.

It was probably a half-promise to go even further in Minnesota that alone secured the election of the regular Republican nominees in November, 1920.⁷ It would have been stronger everywhere if it had not run counter to the National Society of Equity, which by coöperative effort, has long been attempting to destroy the power of the middleman and to control the food and grain markets which the League now seeks to control by state socialism and by direct legislative action.⁸ It would have been stronger everywhere if some of the leaders of the Socialist Party of America had not sensed a rival in the new organization.⁹ It would have been stronger every-

political strength of the League is not 10 per cent greater than its membership.

In Minnesota, the League has virtually 55,000 members, but Dr. Shipstead, its nominee for governor, polled 125,000 votes at the 1920 recent primaries, considerably more than double the total membership of the League, while in 1918, its candidate, C. A. Lindbergh, polled more than 150,000 votes when the League membership was considerably smaller.

⁷ We will discuss this point in Chapter XXVII.

⁸ This was especially true in Minnesota and Wisconsin.

⁹ Some of the socialist leaders have not considered the movement radical enough and have bitterly resented the destruction of their own party organization and their own loss of power which has been the result of their followers voting in the Republican and Democratic primaries. This jealousy and fear caused the Socialist party of Minnesota to put a state ticket in the field in the 1920 fall elections, though there

where if the leaders of the League had not thrown themselves open to charges of disloyalty during the World War, although perhaps the revulsion against militarism which has spread through the country, and the era of profiteering which has followed that war, may now turn even this criticism into a positive political asset.

Originally the movement was an agrarian, a farmers' movement, and though directed and controlled by a socialist hierarchy, it is still mainly such in North Dakota, which is a purely agricultural state. In Minnesota and Illinois, and some other states, it has attempted to unite the farmer and the laboring-man, but has especially appealed to the latter. It is today politically powerful because of the common distrust of the middleman, the capitalist and the so-called business interests, and because of the general unrest.

Many of its ideas, like those of the earlier populists, will remain in our permanent legislation. The organization, however, must sooner or later fall to pieces, and this because there are no points of common interest between the farmer and the socialist, and the farmer and the laboring-man, save the one attempt to curtail the power of the middleman and the excessive power of organized capital, which no doubt will be accomplished, and which would have been accomplished if the League had never existed. This is already evidenced by the fact that the Employers' Liability Act of North Dakota was especially drawn so as to exempt farm labor though it can be no doubt that the rank and file of its members were heartily in sympathy with the Non-partisan League and that large numbers voted for the Non-partisan candidates in preference to their own. It was this jealousy and this fear also which alone prevented the Socialist party of North Dakota from fathering and assuming the responsibility for the movement from the very beginning, for it is a matter of history that before organizing the League Mr. Townley submitted his plans to the North Dakota Socialist Central Committee and offered to that committee the supervision and control.

has been demonstrated that the accidents on the farms from dangerous machinery far outnumber those in the factories and upon the railroads. It is also evidenced by the fact that although on March 28, 1920, simultaneous meetings were held in St. Paul of the Farmers' Non-partisan League and of a so-called Working-peoples' Non-partisan Political League, and an attempt was made by the leaders of both to adopt a common platform and as far as possible to endorse common candidates, a total disagreement arose over the question of the eight-hour labor day which the laboring-man insisted upon and the farmers repudiated.¹⁰ It is further evidenced by the total failure of the delegates from the Non-partisan League of South Dakota to come to any agreement with the radical labor leaders at the meeting of the Committee of Forty-eight, which was held at Chicago in the month of July, 1920.¹¹

In America as elsewhere the landed proprietor is the natural aristocrat, and the vested interests of the country are not in the factories, the stores, or the business houses, but on the farms. The struggle in England throughout the centuries has been between the land-owning and the

¹⁰ A compromise however, was made in Minnesota in the fall election of 1920. The Non-partisan candidate, Henrik Shipstead, was defeated by the regular Republican nominee at the June primaries and the only course open was to form a coalition with the Working People's Non-partisan or Labor party for the November election. The latter party was willing to unite forces and to substitute Shipstead for its original candidate for governor. It however insisted upon a platform, which recognized the right to the eight-hour labor day in the industries though not on the farms.

¹¹ It has since been claimed that these delegates did not represent the League as a whole, but merely its South Dakota branch. As in the case of the presidential candidacy of Governor Frazier, however, we are quite satisfied that the delegates were what may be termed "political feelers," and that if, during the meeting of the conference, it had transpired that the Non-partisan League could have obtained control and the indorsement of its program and of its candidates, the authority of the delegates would have been freely recognized.

laboring classes. It was the land-owner in Prussia who dominated the destinies not only of Germany, but of the whole of Europe. Ostensibly we in America know no landed aristocracy, but, as a matter of fact, the difference is only in names and in our universal suffrage which makes the vote of the laboring-man and of the merchant as effective as that of the land-owner. What is the British country squire but a landed proprietor? We seldom realize that in Europe the man who owns six hundred acres is looked upon not as a farmer but as an aristocrat.

The political union between the farmer and the laboring-man is an impossible union and cannot long continue. The Non-partisan party may destroy the middleman. It may obtain a monopoly of the food supply of the Northwest. Every rise in the price of wheat, however, or in the price of food, raises the price which the laboring-man pays. If the government regulates and reduces the prices of farm machinery, and other manufactured articles, it to that extent lowers the wages of the laboring-men in the cities. Already soap-box orators of the I. W. W.'s are haranguing groups of farm laborers, are pointing to the fact that the farmers have cattle and broad fields, which in Europe would make them princes, and which under the socialistic doctrines of the times are the free heritage of all. Already they are insisting that since the farmers have the natural resources, \$10 a day for the laboring-man is not a high remuneration, but a poor equivalent. Clashes, in short, must come not merely between the landed interests and the business interests, but between the laboring-man and the farmer himself.

The farmer indeed should be the most conservative of all men, for he owns the land. He now asks that taxes may be lifted from all farm improvements, and that farm property shall be taxed at a lower rate than the rate on

industrial property. A time may come, however, when the landless will covet those broad acres and will not be content with merely reversing the scale of taxation. State ownership of land is the program of his socialist allies, and as already stated was even advocated by the County Commissioners of Bowman County, North Dakota. This has been candidly admitted by many of the League's own leaders.

There is nothing more illogical and absurd than the union in the Northwest of the socialist and the farmer forces. It is the union of the lion and the lamb. It means the absolute assimilation of the latter if only the union continues. What is socialism, as defined by Carl Marx, by the Bolsheviki, by Wells, by all the socialistic leaders, and by all the writers on political economy? It is simply the government ownership and control of all of the agencies of production; and, according to these writers and leaders, and according to the basic facts of nature, the principal agency of production is land. We may venture the assertion that there is not a real socialist, such as Carl Marx and the socialists of Boston and New York and Chicago would recognize, among the farmers who live west of the Mississippi River, and that if the so-called socialist orators told their audiences the real truth and defined socialism as it really should be defined, they would be accorded but a scant hearing and their followers would be few. Who of the farmers of the Northwest would be willing to throw their free homesteads, on which they have labored and which they now own, into the universal jack-pot which socialism demands?

The reason for the socialist support and applause is very evident. Not only does the socialization of one industry make it easier afterwards to socialize others, but the socialists have always desired a stalemate. They

have always welcomed the creation even of capitalistic monopolies and have always believed that these combinations but serve to make easier and to point the way to the creation of their universal trust.

Even if the League fails, as never before the farmers have been taught how to unite and how to submit to a common leadership. They have been taught the value of state and national aid in their coöperative enterprises. The socialists hope that a situation will arise in America similar to that which existed in England at the beginning of the nineteenth century and prior to the repeal of the corn laws. They believe that such a situation will cause a bitter conflict between the laboring-man and the farmer and between the landed-proprietor and the landless and will result in a nation-wide demand for the nationalization of the land.

To the rank and file, then, the Non-partisan movement is a class obsession. To its active leaders it is an opportunity for notoriety and for political power. To the large landed proprietor it is an opportunity for the cure of abuses and possibly for the creation of a farmers' monopoly. To the far-thinking socialist it is an entering way for his millennium. It is to be remembered that the American socialist has now become an opportunist. He no longer insists on the fulfillment of his dreams by one sweeping revolution or federal enactment, but, following the leadership of the Fabian Society of England, is willing to accomplish his ends step by step, and, by socializing where the opportunity offers, to make a patch-work which may later be transformed into a complete garment.¹² He

¹² In one of the letters to which we have before referred William C. Remfer says:

"The socialists the world over, since the practical experiment in Russia, have taken a new tack. They now believe that the chief stress should be laid on organization of the workers and the farmers into

too welcomes any movement which may lead to a monopoly whether of steel, or clothing, or of agricultural

one compact organization and follow up organization with propaganda. This is directly opposite of the early theory of education first and organization (into the Socialist Party, of course) afterwards.

In *The American Bolshevik* which was published in Minneapolis under date of February 14, 1919, we find the following:

"Revolutionary Socialists hold with the founders of scientific Socialism, that there are two dominant classes in society—the bourgeoisie and the proletariat, that between these two classes a struggle must go on, until the working class, through the seizure of the instruments of production and distribution, the abolition of the capitalist state, and the establishment of the dictatorship of the proletariat, creates a Socialist order. Revolutionary Socialists do not propose to wait until the vast majority of the people vote them into power.

"In characteristic Utopian fashion the Syndicalists forget that the Social Revolution must in part grow 'within the capitalist shell.'

"They forget that the state, the engine of oppression employed by the capitalist class, must be destroyed through capture by the working class. We must wrest new concessions from the master-class. What shall be our attitude toward the weakening workers?

"On the basis of the class struggle we shall go among them, impregnating them with revolutionary Socialism, we shall teach them solidarity, we shall teach them class-conscientiousness, we shall teach them the hopelessness of social reform, we shall teach them the meaning of Revolution. And the industrial unrest, the ferment of discontent, will compel them to listen!

"The class struggle, whether it manifests itself on the industrial field or in the direct struggle for government control, is essentially a struggle for the capture and destruction of the capitalist political state. This is a political act. In this broader view of the term 'political,' Marx includes revolutionary industrial action. In other words, the objective of Socialist industrial action is also 'political,' in the sense that it aims to undermine the state, which *'is nothing less than a machine for the oppression of one class by another and that no less so in a democratic republic than under a monarchy.'*

"We contend that such political action is a valuable means of propaganda, and further, that the capture of legislative seats is an effective means of capturing the political state, but—and here is the vital point for the 'moderate Socialist' goes no further—we hold that this capture of the political state is merely for the purpose of destroying it. The nature of Socialist parliamentary activity should be purely destructive.

"Because of its constructive nature, our Economic Arm, unlike our Political Arm, may take 'a little at a time.' Our economic movement is not unlike a military movement. All means are used to win a war—infantry attacks, heavy and light artillery, bombardments, sieges, and guerilla fighting. In the industrial struggle the working class employs strikes, boycotts and the like. The political movement, however, has for its object only the storming of the political citadel of capitalist tyranny; therefore the Political Arm cannot compromise. Our political movement should be the essence and incarnation of our revolutionary

products, and has always persistently acted on the theory that the examples set by these monopolies and the public

aim. With Liebknecht we say, 'To parliamentarize is to compromise, to log-roll, to sell out.'

The Socialist platform of Minnesota, for the year 1912, declares that the political organization and movement of Socialism 'aims to establish the collective and public ownership of the means of production, transportation, and distribution, the democratic operation and management of such public enterprises and the remuneration of the workers by the full social value of the product of their labor.' The state platform of 1916, after setting forth an immediate legislative program, concludes under the title, "Ultimate Aim of Socialism."

"The before mentioned measures are presented by the Socialist Party for the immediate relief of the workers but its main efforts are directed to the complete overthrow of the present capitalist order and the establishment of an industrial system based upon the collective ownership and democratic management and control of the sources and machinery of wealth production."

The *New Times*, an official organ of the Northwestern Socialists, under date of March 2, 1918, had the following to say of the Minnesota Socialist platform:

"The Socialist Party of Minnesota in convention assembled pledges its fidelity to the principles of International Socialism as contained in the National Platform and Constitution of the Socialist Party of the United States. It directs its appeal to all members of the working class, whether of brain or brawn, and to all who sympathize with its cause.

SOCIALISM THE ONLY REMEDY

"While aiming at the overthrow of private ownership in land, mills, mines, factories, railroads and industrial processes in general, and the establishment of collective or social ownership and democratic management of these things, and recognizing that nothing short of such change can be of lasting benefit to the working class, the Socialist Party reaffirms its unity with the workers, organized or unorganized, in all their efforts to better their conditions. It declares the purpose of the party to be to use all political powers that may be entrusted to it, or to relieve, so far as possible, the hardships of the workers under existing conditions and to assist them in all their conflicts with the powers of privilege.

"The Socialist Party pledges its undivided support to all legislative measures which will benefit the working class, and pledges itself to oppose to the limit of its power all measures which make for labor's further enslavement and exploitation.

"Looking to the final abolition of the entire system of private ownership, and for the purpose of strengthening the workers in their present struggle with the organized plutocratic powers, we pledge ourselves to the following specific measures.

INDUSTRIAL DEMANDS

"1—Continuous shortening of the workday by legal enactment and union activity; no standard to be considered final until exploitation of labor has been abolished.

indignation which is occasioned thereby will sooner or later lead to his one central government monopoly.¹³

POLITICAL DEMANDS

"6—Full suffrage for all adult men and women and the right to vote without any restriction, to all aliens of twenty-one years and over who have resided in that state one year and declared their intention to become citizens of the United States.

ULTIMATE AIM OF SOCIALISM

"These measures are presented by the Socialist Party for the immediate relief of the workers, but its main efforts are directed toward the complete overthrow of the present capitalist order and the establishment of an industrial system based upon the coöperative ownership of the resources and machinery of wealth production. With the abolition of capitalism, the evils which flow from it will necessarily disappear."

¹³ Fortunately the recent press reports show that though various farm bureaus and other similar organizations are seriously considering such action they as yet realize that the public is an important third factor to be considered, and as yet appear to be content with insisting upon seats on the various boards of trade and chambers of commerce and the formation and legalization of great coöperative selling exchanges which shall as far as possible help to stabilize the markets, to eliminate the excessive profits of the all-too-many middlemen and help to bring about a nearer approach between the price that is paid to the producer and that which is paid by the ultimate consumer.

CHAPTER II

NORTH DAKOTA—NEITHER POVERTY NOR ILLITERACY THE CAUSE OF THE REVOLUTION

THERE is no foundation for the belief which is so commonly entertained by the eastern conservatives that the revolution in North Dakota is due to the illusions of illiteracy or that it is the protest of destitution or of want. The state has but little poverty and but few extremes of wealth.

In freedom from illiteracy North Dakota stands tenth among the states of the American Union, being surpassed only by Iowa, South Dakota, Nebraska, Kansas, Idaho, Utah, Washington and Oregon.¹ According to a recent

¹ According to *The Encyclopedia Americana* the figures for 1910 for the United States as a whole, were as follows:

States	Per cent	States	Per cent
United States	7.7	West North Central	2.9
New England	5.3	Minnesota	3.0
Maine	4.1	Iowa	1.7
New Hampshire	4.6	Missouri	4.3
Vermont	3.7	North Dakota	3.1
Massachusetts	5.2	South Dakota	2.9
Rhode Island	7.7	Nebraska	1.9
Connecticut	6.0	Kansas	2.2
Middle Atlantic	5.7	South Atlantic	16.0
New York	5.5	Delaware	8.1
New Jersey	5.6	Maryland	7.2
Pennsylvania	5.9	Dist. of Columbia	4.9
East North Central	3.4	Virginia	15.2
Ohio	3.2	North Carolina	18.5
Indiana	3.1	West Virginia	8.3
Illinois	3.7	South Carolina	25.7
Michigan	3.3	Georgia	20.7
Wisconsin	3.2	Florida	13.8

report of the Russell Sage Foundation it occupies the fifteenth place in the matter of educational efficiency. In per capita wealth it ranks third among the American states.² Few revolutions indeed which have attained any measure of success have been the immediate results of either illiteracy or of abject poverty; all have been organized and maintained by the relatively intelligent and the relatively prosperous, and the revolution in North

States	Per cent.	States	Per cent
East South Central	17.4	Montana	4.8
Kentucky	12.1	Idaho	2.2
Tennessee	13.6	Wyoming	3.3
Alabama	22.9	Colorado	3.7
Mississippi	22.4	New Mexico	20.2
West South Central	13.2	Arizona	20.9
Arkansas	12.6	Utah	2.5
Louisiana	29.0	Nevada	6.7
Oklahoma	5.6	Pacific	3.0
Texas	9.9	Washington	2.0
Mountain	6.9	Oregon	1.9
		California	3.7

² The following facts were published in 1918 by Mr. Jerry Bacon of Grand Forks, North Dakota, himself a successful farmer, in a pamphlet entitled: "A. (After) C. (Cash) Townley Smoked Out."

"The last Government figures, compiled in 1912, showed that North Dakota was third in per-capita wealth, Nevada, with its immense mining industry and sparse population, leading and Iowa, the greatest agricultural state, being second. North Dakota's per capita wealth was \$3,374.00 (total) as against \$1,965 for the country at large. For comparison, the figures for a few states are given herewith, showing the figures for 1904 and 1912, the last two dates when the government compiled data, and the per cent of increase:

	1912	1904	Increase
"Nevada	\$ 5,038	\$ 5,214	—05%
Iowa	3,539	1,828	93%
NORTH DAKOTA ..	3,374	1,771	91%
Massachusetts	1,805	1,672	8%
Rhode Island	1,709	1,702	—
Connecticut	1,969	1,453	36%
New York	2,626	1,868	44%
New Jersey	2,140	1,547	28%
Pennsylvania	1,939	1,707	14%
UNITED STATES..	1,965	1,318	49%

"To get a definite idea, the value of crops in the state, as estimated by the Government experts, is given by years as follows:

Dakota and in the states of the West furnishes no exception to the rule.

North Dakota has an area of 70,837 square miles, of which only 654 is water. It has enormous deposits of lignite coal which are found close to the surface throughout the whole of its western area so that thousands of its farmers have a ready fuel supply at their own doors and often on their own lands. Few states in the American Union have a larger percentage of soil which is both fertile and tillable. Its population in 1910 was 577,065 and is now 645,730. Its largest town, Fargo, has only 21,907 inhabitants. The next largest city, which is Grand Forks, has only 14,010. Next to Grand Forks comes Minot, with 10,476; Bismarck, with 7,122; Devil's Lake, with 5,140. These are the only towns with a population which exceeds 5,000. It has in all, twelve cities with a population of over 2,500, and 81 cities or villages of a lesser number. Of course, it has numerous hamlets. Studied in percents, 13.6% of its population live in the larger towns and cities, 33% live in places with a population under 2,500, and 53.4% live in the country.

"1910	\$ 61,486,000.00
1911	138,747,000.00
1912	166,796,000.00
1913	113,286,000.00
1914	155,154,000.00
1915	222,924,000.00
1916	169,660,000.00
1917	220,290,000.00

"An average of \$155,964,000.00 per annum, or \$2,098 for each of the 74,360 farmers found in the state by the census enumerators.

"That would indicate a production per farmer of \$2998 in 1915, \$2282 in 1916 and \$2,962 in 1917. Where is the state that can equal that record?

"The census reports indicated that during the census year, the leading state in production per farmer was North Dakota, with \$2,429 per farmer; followed by Nevada with \$2,203, California with \$1,736 and South Dakota with \$1,616. Illinois had \$1,478; Iowa, \$1,450; Wisconsin, \$838; Oklahoma, \$702; Texas \$714. The average for the entire country was \$863."

Though during recent years the tendency throughout the nation has been toward the growth of the larger cities as compared with the country, in North Dakota there are 14.6% more people living in the country than the national average.

The state has practically no manufactures, and no permanent labor population; being devoted largely to the raising of small grain, even its farm laborers are transients.³ In 1890 it had 27,611 farms; in 1900, 45,332; in 1910, 74,360; and in 1915, about 70,355. In 1910 only 14.3 per cent of these farms were worked by tenants, as against 18.2 in Colorado, 10.3 in Idaho, 37.8 in Iowa, 36.8 in Kansas, 21.0 in Minnesota, 8.9 in Montana, 38.1 in Nebraska, 54.8 in Oklahoma, 24.8 in South Dakota, 52.0 in Texas, 13.7 in Washington and 13.9 in Wisconsin. In 1915, it raised 155,845,963 bushels of wheat, for which the producers received \$135,585,988. It also raised large quantities of other small grains, corn and hay, for which the producers received the sum of \$90,-632,065. In 1914, the estimated value of live stock killed for home use was \$3,609,956, and of live stock sold for market, \$9,058,180, and the total deposits of its banks amounted to \$116,062,027.00.

According to the report of A. J. Surrat, the field agent of the United States Department of Agriculture, the value of its agricultural products in 1917 amounted to \$271,238,000 and in 1918 to \$430,938,000;⁴ and this did not include the value of live stock left on the farms which was \$156,000,000 in 1917 and \$158,000,000 in

³ It has perhaps about two thousand coal miners.

⁴ It is estimated that in 1918 about two thirds of the valuation of approximately \$430,000,000 or \$288,000,000 represented farm products which were actually sold on the market and that the remaining \$142,000,000 represented farm products used for seed or consumed on the farms.

1918, nor the value of straw and of city and village garden products. This makes a handsome per capita wealth of more than \$417.30 for each man, woman and child in the state in 1917 and of more than \$643.16 in 1918.⁵

In 1919, North Dakota raised and sold at war prices 53,613,000 bushels of wheat; 3,800,000 bushels of flax; 14,950,000 bushels of barley; 38,400,000 bushels of oats; and 15,560,000 bushels of rye, to say nothing of large quantities of corn, clover, potatoes and alfalfa, which she either sold on the market or fed to her by no means inconsiderable herds of horses, cattle, hogs and sheep.

Though in 1920 scarcity of labor occasioned a decrease in acreage and a somewhat backward season proved injurious to agriculture, the Government's estimate of the total farm value of the field crop was \$192,248,000.

But in spite of its natural wealth, its magnificent possibilities, and its sturdy and intelligent people, North Dakota is economically speaking but a province and perhaps for this reason, the revolution.

⁵ The population of North Dakota in 1920 was only 645,730 and in the years we have mentioned it must have been less.

CHAPTER III

THE CAUSES OF UNREST. THE FOREIGN AUTOCRACY AND THE THRONE ROOM AT SAINT PAUL

FROM the very beginning not the least of the grievances of North Dakota has been that it was governed by an autocracy, though few will deny that the Non-partisan movement of to-day has built up an autocracy of its own which is more autocratic by far than any dictatorship which it has sought to supplant.

The territorial governors and officers of the Dakotas were selected in the East.¹ In the first constitutional convention of the new State of North Dakota a draft of a constitution was presented which was written in the East.² At all times North Dakota has been economically dependent on the East, and for many years its real seat of government was at the City of St. Paul in the State of Minnesota, rather than at its own capital at Bismarck. It is at St. Paul even to-day that the headquarters of the Non-partisan League are located, and there its principal officers reside.

North Dakota, in fact, always has been, and perhaps

¹ To the North Dakotan all of the territory of the United States that lies east of the Red River of the North, is "the East."

² At the request of Henry Villard the president of the Northern Pacific Railway Company, this constitution was drafted by Professor James Thayer of the law department of Harvard University. After having been bitterly attacked by M. N. Johnson, who later was elected by the North Dakota insurgent Republicans to a seat in the United States Senate, it was rejected as "a piece of unwarranted outside intermeddling." It was, however, in many respects an admirable document and must have served as a guide to many of the members of the convention.

always will be in some particulars a province of St. Paul and of Minneapolis, rather than an economically and politically independent state. Perhaps it would still be little more than a wilderness if it had not been for the accumulated wealth of the East, and especially the wealth which is controlled by the cities just mentioned, yet it is this dependency which has been the occasion of much of its discontent.³

When the state was settled, industry had long since gone out of the home, and farmers were working and producing for the market, and not only for their own needs or even for local consumption. Often the land holdings were very large, and the new settlers were landed proprietors and sellers of farm produce rather than crofters or cottagers. Their crops had to be sold in the East and their supplies of every kind bought in the East, and the money which was needed to build their farm buildings, to buy their machinery and supplies and to put their virgin soil into a state of cultivation had to be borrowed in the East or from those who had Eastern connections. They were few in number⁴ and had come into a new land of Canaan, a land of vast expanse and of great natural resources. Millions of dollars were necessary for its development and not only had these millions to be borrowed that the settlers might acquire

³ If it had not been for the invention of the twine-binding harvesting machine, which made it possible for a few men to cut the crops on thousands of acres of land, it is very doubtful if the greater part of North Dakota would even now be occupied and under cultivation.

⁴ In 1860, the territory of the Dakotas which included both North and South Dakota, only contained 4,837 people. This territory extended over 140,000 square miles. In 1870 that part of the territory which is now known as North Dakota had a population of 2,405. By 1880 this number had increased to 36,909. In 1890 the federal census enumerated a population of 180,719. In 1900 the population was 319,146. By 1910 it had increased to 577,056. In 1920 it was 645,730. North Dakota has an area of 70,000 square miles.

and produce, but outsiders must themselves own and construct the main arteries of trade and of commerce. Small grains in the eastern part of the state and cattle in the western were the North Dakotans' only stock in trade, and this grain and these cattle had necessarily to be sold at the railroad centers, Minneapolis, St. Paul and Duluth.

On account of the shortness of the seasons, and the lack of farm help and of storage facilities, the crops had to be threshed from the shocks in the open fields, and immediately sent to the Eastern markets, and the money to move these crops had to be furnished by the East, and again largely by St. Paul and Minneapolis. It was in St. Paul and Minneapolis also that the central offices of the railroad lines and of the lumber and elevator companies were located.

It was but natural that the capitalists of these cities should sooner or later seek to attain a share in the government of a state in which they had so heavily invested, and to assume some measure of control over its economic policies.

Rightly or wrongly, therefore, and often wrongly, the railroads and the financial interests of St. Paul and Minneapolis soon began to interfere in the politics of North Dakota, and soon the Merchants Hotel at St. Paul became the throne-room of its political bosses. Though it must be admitted that as a rule these bosses governed fairly and well, but little public money was squandered or stolen and the antirailroad and corporation measures which were killed in the legislature should perhaps in almost every case have been defeated on their merits, it is nevertheless true that an autocratic government soon came to prevail, so that it was often and truthfully said that if one desired to run for the office of poundmaster

it was first necessary for him to go to the throne-room and to obtain permission.

Winston Churchill's story of Conniston, indeed, might just as well have been written of North Dakota, and North Dakota certainly has had its Jethro Bass, in fact two of them. One of these Jethros was a Scotchman, Alexander McKenzie. The other was a French Canadian, Judson LaMoure.⁵ Both were remarkably able men, though both were comparatively uneducated. Both had had a rigid training in the methods and the politics of the West.⁶ Both, if not directly, were certainly indirectly in the employment of the railroads, and, by means of the free passes which they were able to give and the many other favors which they bestowed, were able not merely to prevent much legislation which was hostile to their employers but generally to control the politics of the new state. Soon too they came to have other clients, and as their clients increased their power increased also. These new clients were the banks, the insurance companies and the owners of the lines of grain elevators and lumber-yards, all of which had their headquarters in the eastern cities, and all of which seemed to deem it neces-

⁵Judson LaMoure read the book referred to with great interest. He saw the parallel and appeared to be pleased when his friends called his attention to it. He resembled the character both in his good qualities and in his bad, and, as is the case with most political bosses, owed to these good qualities much of his political power. For many years he retained a seat in the Senate as a representative from Pembina County and at all times enjoyed the genuine affection of his constituents. He zealously watched over the interests of his corporate clients and protected them from hostile legislation. But as a member of the upper house and as chairman of its finance committee, he was in all other respects an efficient and a really valuable member.

⁶That of Judson LaMoure had been obtained as an Indian agent in the Pike's Peak mining boom and on the frontiers of Iowa and South Dakota. That of Alexander McKenzie, as a United States army scout at the time of the Custer massacre, as sheriff of Burleigh County, North Dakota, in the early days when the cattle rustler and the hostile Indian were abroad, and later in the mining centers of Alaska.

sary to maintain lobbies at the North Dakota capital to protect their interests, and who therefore, even if they did not directly employ, had at any rate to make peace with the ruling political magnates, and to agree to any program which they advocated.

CHAPTER IV

THE REVOLUTION OF 1906

SOONER or later it was inevitable that there should be a rebellion, and that there should be an attack on corporate control and a demand for home rule. It was also not to be expected that this rebellion should always be altruistic and always be wisely led, but that in it, as in all other revolutions, the demagogue and the political profiteer would see his opportunity and would play his part.

The first uprising was in 1892. Its immediate cause was the veto by Governor Andrew H. Burke of a bill which was favored by the Farmers' Alliance and which sought to compel the railroads to lease sites on their rights of way for grain elevators and warehouses. The result was a fusion of the Farmers' Alliance, the Populists and the Democrats and the election of Eli C. B. Shortridge as governor. During this administration a small appropriation was made for the construction of a terminal elevator at Duluth. Perhaps on account of the panic of 1893 and perhaps for other reasons nothing further was done to promote the venture and the rebellion itself was terminated in 1894 by the election of the regular Republican candidate, Roger Allin.

The real revolution came in 1906. Its success was largely due to the activities of three men, George Winship who was the editor and owner of the Grand Forks Herald, which was by far the most influential paper in the state; Burleigh F. Spalding, who was a trained and

effective politician, and who acted as organizer and field manager; and John Sorley, who, by the creation of a Scandinavian League did much towards organizing his countrymen and formulating their protest against the dominant Scotch McKenzie-McCumber-Hansborough autocracy.

Winship had for many years worked with the so-called old gang or machine, and had held many more or less lucrative offices as a result of his association. He, however, was a man of independent thought and always seems to have chafed at restraint. He early sensed the popular discontent. He had watched the La Follette insurrection in Wisconsin from the beginning and it was not long before he became convinced of the political potency of the La Follette appeal. Like La Follette, and for much the same reasons, he had become dissatisfied with the caucus and convention system.

Spalding, also, had formerly associated with the old machine. Curiously, yet not curiously after all, for there is nothing that is curious or unusual in politics, he was a conservative of the conservatives and was constitutionally opposed to practically all of the so-called reform measures and *isms* that the rank and file of the insurgents, or, as they chose to term themselves, Progressive Republicans, so vigorously advocated and insisted upon placing in their platforms.

But he was a well trained and shrewd politician and had the advantage of being a man of high character and attainment. Above all he had a real grievance. Though he had associated with the dominant political faction he had always resented dictation and there can be no suggestion that he at any time connived at any dishonorable practices. In fact in the past he had been tolerated by

the politicians and allowed to hold his seat in Congress merely on account of the fact that he was naturally and constitutionally a conservative and what might be termed "a safe and sane man."

He had resented an attempt to control his patronage and to interfere in other ways with the freedom of his personal judgment, consequently at the Republican Convention of 1903 the political managers saw fit to refuse him their reindorsement as congressman and nominated Ansel Gronna in his place.

Gronna at that time was also a strong conservative, though later, when a member of the United State Senate, he became one of the strongest supporters of Senator Robert M. LaFollette and of the Non-partisan League.¹ He was a Scandinavian by birth and was especially strong with the Norwegian settlers of the state who at that time perhaps constituted forty per cent of the voters. It was this latter fact which probably led to his selection though there can be no doubt that the rejection of Spalding in any event had been determined upon.

But Spalding was not of the kind that brooks rejection. Nor was it necessary that he should do so. Revolution was in the air and all that was needed was an organizer and a leader. Already the fame of LaFollette had spread to North Dakota. The so-called LaFollette reforms were being everywhere discussed. Many of the settlers of North Dakota had themselves come from Wisconsin. All that was necessary was to make of the name McKenzie an anathema, and a little muckraking in the congressional records made this a very easy task.

Senator Hansborough, in the United States Senate, and Alexander McKenzie, as the United States marshal,

¹ He was later repudiated by the League and was defeated by their candidate E. F. Ladd at the 1920 elections.

either rightly or wrongly, and it made no difference which, had been popularly associated with the so-called "Looting of Alaska" which has since been put in story form in Rex Beach's novel, *The Spoilers*. These men both belonged to the so-called old gang. McKenzie was especially vulnerable because he had been made the scape-goat of the whole affair. Above all, the défrauded miners were or were supposed to have been Scandinavians, and forty per cent of the voters of North Dakota belonged to that race. All therefore that was necessary was to spread abroad the story of the "Looting of Alaska," to denounce McKenzie and all of his works, and to raise the standard of revolt. A coalition was made with the Democrats, and John Burke was elected Governor. The insurgents obtained control of both houses of the legislature. Above all, the system of primary elections was adopted.

It was this revolution which laid the foundations for the present Non-partisan League, for in it the farmers of North Dakota found a new war cry and new objects of anathema. That war cry was "North Dakota for North Dakotans" and the objects of their anathema were Big Business, McKenzie and McKenzieism.

Formerly the Scandinavian voters of the state had been loyal Republicans and had implicitly followed and obeyed the old party leaders. Many of them had come to the United States during the Civil War or immediately thereafter; for years the spirit of revolt against the Swedish aristocracy had been brewing in Norway; to them the name Republican had something in it that was fascinating and in their minds the Democratic party had been associated with the maintenance of slavery. It was a Republican North which had opened up the free lands

of the West for settlement and it was to that party that they owed their homestead rights. The early Scandinavian settlers in America had fought in the armies of the North; Minnesota, which had sent the first regiment of volunteers to the front, was a Scandinavian state; the Thirteenth Wisconsin Regiment which had rendered so good an account of itself at Chattanooga was a Scandinavian regiment. Historically the Norseman was closely identified with the Republican party.

Now, however, he was told that the independence which he had fought for in Norway, was being denied to him in North Dakota. He was told that in the place of the hated aristocracy of blood and of the old world there was a new aristocracy of money and corporate power. A Scandinavian Voters' League was organized. The gods of the past were dethroned. Law abiding though he was, the Norseman had cut away from the land of his fathers and the traditions of the old world. He knew nothing of the traditions of the new. The Pilgrim Fathers were not his fathers; of the history of our constitution and of the growth of our American system under the law he was entirely ignorant. All he knew was that Big Business had charged three per cent a month interest, Big Business had manipulated the price of wheat, Big Business had controlled his vote. He had lost his moorings and his faith, he was ready for anything new.

Everything that was new, or that was supposed to be new was promised to him. Under the new primary system each candidate had to formulate his own platform and to work out his own salvation. The vague and tweedledum and tweedledee arguments on the tariff gave place to definite economic propositions. Politicians of all ranks and grades ransacked the legislative records of

the world and especially those of Australia, New Zealand, Switzerland and Denmark for suggestions and for analogies. Men and women everywhere were beginning to question the very foundations of government.

CHAPTER V

THE STRUGGLE FOR ECONOMIC INDEPENDENCE

ECONOMIC grievances usually lie behind political revolutions, and when once political freedom has been obtained, the next goal is usually industrial.

The principal grievances in North Dakota were the exactions of the middlemen and the control of the grain and stock market by the boards of trade and the chambers of commerce of the cities of St. Paul, Minneapolis and Duluth. That in the past the middlemen should have been in a position to profit at the expense of North Dakota was unavoidable. In order that the grain might be marketed, North Dakota had of necessity to sell its products to Eastern consumers and in the centers where the Eastern consumers purchased their goods. The local buyer with eastern connections was absolutely necessary; above all, the local warehouse and the local grain elevator were necessary. These elevators and warehouses the farmers themselves could not build in the early days because they lacked the ready cash; and, of course, they could not sell to themselves. Even after they had begun to build their so-called Farmers' Coöperative Elevators,¹ poor crops

¹ In 1915 there were probably eight hundred so-called farmers' elevators in the state as opposed to about fourteen hundred belonging to the so-called old line companies. The really private nature of these farmers' elevators however, was completely demonstrated during the World's War, when their owners and stockholders, at a meeting which was held at Bismarck, made a bitter complaint against a number of the local mills because they paid such high prices for wheat that the farmers' coöperative elevators could not make any profit.

and present needs rapidly occasioned the majority of the stockholders to sell their interests, and caused these elevators to become practically one-man and privately owned. Even these elevators were compelled to ship to the city markets and to employ city commission men or agents. Often in order to obtain the money with which to buy from the farmers they were compelled to borrow from the commission houses. If, therefore, North Dakota was to be developed, the capitalists of the East and especially of St. Paul, Minneapolis, and Duluth had themselves to spend millions of dollars and to build large lines of elevators. It was only natural that these elevators and systems should center in Minneapolis and St. Paul, where the Falls of St. Anthony early made a milling center possible, and in Duluth, which was at the head of the transportation of the Great Lakes. The railroads from the East converge at these points, and it was to these cities that the Eastern buyers would come to buy. These eastern buyers could, of course, buy small quantities of grain elsewhere. They could, of course, contract with the North Dakota farmers to ship to them directly; but as a rule, the North Dakota farmer desired to sell his grain by the wagon-load rather than in carload lots, and in fact needed the immediate cash which the local elevators would pay rather than the promises to pay when the carloads reached their destinations, which might not be for many weeks. The eastern buyer also usually desired to buy in large quantities and to be sure of getting the grade and the quality which he had contracted for, and this could be accomplished only by buying in the central markets.

All this necessitated boards of trade or chambers of commerce. The nature of the business made it necessary

to establish certain grades so that the grain could be sold by sample and contracts for future delivery be made and filled. It necessitated commission men and commissions. It necessitated inspection to determine the grade of each carload received. It also necessitated a difference of price between each grade and the selling on the open market and to the highest bidder that which the boards or inspectors considered did not conform to any of the established grades. The practice in short was as follows:

When a farmer in North Dakota had a load of grain to sell he would drive it to his local elevator. There the local buyer would examine it, grade it and pay him therefor on the basis of the price for the same grade at Minneapolis less freight, a dockage or reduction for foul seeds, dirt, and foreign grain, and a profit. Even if he were not buying as the agent of a mill or for his own consumption the buyer could do this with comparatively little risk as he could estimate the number of bushels he was going to buy in any one day and by telegraph sell the same for future delivery on the Minneapolis market. The grade being established, he could fill the order or sale by delivering the same wheat or wheat of a similar grade.

If, however, the farmer himself desired to sell on the Minneapolis market and was not satisfied with the grade or the prices of the local buyer, he, himself, could ship his grain in carload lots to Minneapolis and sell it through a commission man, but of course, he would have to accept the Minneapolis grades and pay the Minneapolis commission.

The farmers complained, and often with much justification, that the Minneapolis Chamber of Commerce was

a close corporation; that only its members could trade upon its floors and that as a rule they were the owners of or were connected with the great milling or elevator interests.²

He complained that the grain inspector was to all intents and purposes an appointee of the chamber and that the farmer was entirely at the mercy of the board. He complained of unfairness in computing the amount of dockage for dirt, foul seeds and inferior and spoiled

² According to a statement made by Charles Edward Russell in his *The Story of the Non-Partisan League*, the membership in the Minneapolis Chamber of Commerce was as follows:

Line elevators	135
Terminal elevators	39
Commission houses	200
Feed houses	5
Shippers	34
Hay dealers	7
Linseed-oil concerns	13
Millers	50
Maltsters	8
Bankers	8
Capitalists	6
Manufacturers	7
Lawyers	2
Railroad representatives	2
Farmers	2
Insurance agency	1
Total	318"

According to the same author "each membership in the chamber carried a vote and each firm or corporation could own as many memberships as it pleased" and the corporations represented were as follows:

"Van Dusen-Harrington Company (grain handlers)	21
Washburn-Crosby Company (millers, grain handlers)	24
Big Diamond Mills	10
Pillsbury Flour Mills Company	9
E. S. Woodworth Company (grain)	9
T. M. McCord Company (grain)	9
The F. H. Peavey Company (grain)	8
McCaul-Dinsmore Company (grain)	7
E. L. Welch Company (grain)	7
The Minneapolis Banks	8"

foreign grain and that a charge was made for switching whether the switching of the car was necessary or not. Above all he complained that though there was a marked difference in the prices which were allowed for the different grades of wheat there in fact was no difference in their milling quality and that all grades made equally good flour.³ He therefore insisted that this milling quality and not a fanciful grade should determine the price. He also insisted that he should be allowed for the value of the dockage which often contained good grain and seed. He called attention to the fact that by cleaning and scrubbing and other processes and by skillfully mixing lower with higher grades the grain dealers were able to create a grade which would meet the requirements of the eastern markets. He insisted that more wheat of the higher grades was shipped out of Minneapolis, St. Paul and Duluth than was credited to

³ This claim was made by Prof. E. F. Ladd of the North Dakota Agricultural College. It was based on experiments on a small scale which were made in the laboratory, and as yet its truth can hardly be said to be established. The statement, however, has been much advertised. Perhaps the truth of the case is that the lower grades of wheat may make flour of as high a nutritive value as that which is milled from the higher grades, but that they do not make a flour which can be sold on the market at the same price. The market value of the flour of course must ultimately determine the price which is to be paid to the farmer for his wheat and nutritive values and market values are entirely different things. The higher grades of wheat make a whiter flour and the same quantity makes a larger loaf. These large white loaves have won a place for themselves in the hearts of the housekeepers of both America and Europe, and it is because the Minneapolis mills first learned how to make this white and expansive flour that they outdistanced their competitors, captured both the American and the European markets and made Minneapolis the greatest milling center in the world. It is because of this fact and because of the knowledge and the skill that is possessed by the Minneapolis millers that they have been able to give to the hard wheat of the North its particular value, and it is because of their large purchases that the prices of wheat at Minneapolis so often exceed those which prevail in Chicago and in the other markets of the country.

the farmer.⁴ He claimed that all these profits should be his. He insisted on a market of his own and on the right to fix his own prices. He wanted terminal elevators at Minneapolis, St. Paul and the other centers, which

*In 1906 a committee of the North Dakota Bankers' Association made the following report on a Duluth elevator:

Grade of Wheat	Bushels Received	Bushels Shipped
No. 1 Northern	99,711.40	196,288.30
No. 2	141,455.10	467,764.00
No. 3	272,047.20	213,549.30
No. 4	201,267.20	None
No Grade	116,021.10	None
Rejected	59,742.30	None
Total	890,245.10	877,512.00
On hand, estimated		12,733.10

890,245.10

Another elevator's records:

Grade of Wheat	Bu. Received	Bu. Shipped
No. 1 Hard	599,602	648.607
No. 1 Northern	15,187.012	19,886.137
No. 2	19,693,454	15,178,999
No. 3	7,035,133	1,971,355
Rejected	892,241	94,626
No Grade	2,561,505	468,922

And still another:

No. 1 Hard	90,543	199,528
No. 1 Northern	12,401,897	18,217,789
No. 2	10,295,172	6,723,732
No. 3	2,616,065	283,299
Rejected	2,350,302	314,139
No Grade	2,586,843	256,943

Bulletin No. 114 of the North Dakota Agricultural Station prints the following report of the Chief Inspector of Grain of the State of Minnesota.

Grade	Bu. Received	Bu. Shipped
No. 1 Hard	586,600	276,484
No. 1 Northern	15,571,575	19,978,777
No. 2 Northern	20,413,584	22,242,410
No. 3 Northern	9,770,031	7,664,232
No. 4 Northern	2,812,653	624,433
Rejected	1,175,513	621,773
No Grade	4,695,562	1,000,945
Total	55,025,521	52,409,054

should be large enough to make it possible for him to offer his grain in sufficient quantities so that the eastern buyer could purchase from him directly. He insisted on the right of his selling agency, the Equity Exchange, to a seat on and a right to sell on the floors of the Minneapolis Chamber of Commerce, which had heretofore been unwisely denied it. He claimed that the price of a loaf of bread and of a barrel of flour was grossly excessive as compared with the price that he was paid for his wheat. He wished to do his own manufacturing in North Dakota, to keep the by-products himself, and to be a seller of flour as well as a raiser of wheat.

In speaking of these demands United States District Judge Charles F. Amidon, who has always been a friend of the League, in an opinion said:

"The people of North Dakota are farmers, many of them pioneers. Their life has been intensely individual. They have never been combined in incorporated or other business organizations, to train them in their common interest, or promote their general welfare. In the main they have made their purchases and sold their products as individuals. Nearly all their live stock and grain are shipped to terminal markets at St. Paul, Minneapolis and Duluth. There these products pass into hands of large commission houses, elevators, and milling companies and live stock concerns. These interests are combined, not only in corporations, chambers of commerce, boards of trade, and interlocking directorates, but in the millions of understandings which arise among men having common interests and living through long terms of years in the daily intercourse of great cities. These common understandings need not be embodied in articles of incorporation or trust agreements. They may be as intangible as the ancient 'powers of the air.' But they are as potent

in the economic world as those ancient powers were thought to be in the affairs of men. It is the potency of this unity of life of men dwelling together in daily intercourse that has caused all nations thus far to be governed by cities.

"As North Dakota has become more thickly settled and the means of intercourse have increased, the evils of the existing marketing system have been better understood. No single factor has contributed as much to that result as the scientific investigation of the state's agricultural college and the federal experts connected with that institution. That work has been going on for a generation, and has been carried to the homes of the state by extension workers, the press, and the political discussion of repeated political campaigns.

"The people have thus come to believe that the evil of the existing system consists not merely in the grading of grain, its weighing, its dockage, the price paid and the disparity between the price of different grades, and the flour-producing capacity of the grain. They believe that the evil goes deeper; that the whole system of shipping the raw materials of North Dakota to these foreign terminals is wasteful and hostile to the best interests of the state. They say in substance:

"(1) The raw materials of the state ought to be manufactured into commercial products within the state. In no other way can its industrial life be sufficiently diversified to attain a healthy economic development.

"(2) The present system prevents diversified farming. The only way that can be built up is to grind the grain in the state which the state produces—keep the by-products of bran and shorts here, and feed them to live stock upon the farms of the state. In no other way can a prosperous live stock, dairy, and poultry industry be built up.

“(3) The existing marketing system tends directly to the exhaustion of soil fertility. In no other way can soil depletion be prevented, except to feed out to live stock at least as much of the by-products of grain raised upon the state's farms as that grain produces when ground, and thus put back into the soil, in the form of enriched manures, the elements which the raising of small grain takes from it.”

On the same subject and in another judicial opinion Mr. Justice Richard Grace, who was elected by the League to a seat on the Supreme Court of the State of North Dakota, said:

“The principal source of the production of wealth of North Dakota is agriculture. It is a conservative estimate that 90 per cent of the wealth produced by the state is from agriculture. It is the foundation of the state's prosperity and welfare, and upon it, as such, rests all other business of the state. The mercantile pursuits, the banking interests, and every business pursuit within the state depends directly for its success upon the wealth produced by the farmers of this state. The wealth produced by the farmers of this state is the life-blood of the business interests of the state; hence the conservation and securing of the wealth produced by the farmers to them is of vital interest not only to the farmers, but to every one who is engaged in the carrying on of business within the state.

“Under the conditions which have heretofore existed for the purpose of marketing, wheat has been graded. The grades are No. 1 hard, No. 1 northern, No. 2, 3, 4, and no grade. Under this system of wheat grading the agriculturists of this state have in the last quarter of a century unquestionably lost hundreds of millions of dollars. There has been what may be termed a ‘spread’

between the No. 1 hard and the lowest grade above named of perhaps 20 cents per bushel, and sometimes more. This difference is made to exist on many pretexts; for instance, though one grade of wheat—say, for instance, No. 3—may contain wheat of just as good milling quality as that made from No. 1 hard wheat, there is, nevertheless, perhaps a 'spread' of 10 cents per bushel between the two grades of wheat, based perhaps upon the fact that the lower grade of wheat may be somewhat bleached by having stood out in the weather in the shocks and have been subjected to inclement weather, while wheat near the same field may have been threshed and secured without having been subject to adverse weather conditions.

"The only difference between the two grades of wheat in this instance is practically one of color. The wheat which has been subject to more or less inclement weather, being what is termed bleached, of course, readily affords an excuse for the difference in grade and price. Again, one grade of wheat—for illustration, take the same grades; the lower grade may weigh 45 pounds to the bushel, and the higher 60 pounds to the bushel. While there may be a great difference in their weights, according to eminent authority, there is not, as a general rule, much difference in their milling qualities and values.

"It must be remembered that wheat is not sold by the measured bushel. While a bushel, struck measure, of light wheat might not weigh over 45 pounds, it must be remembered that 45 pounds do not make a bushel, and that 60 pounds do. A bushel, 60 pounds, of the light No. 3 wheat, being of just as good milling quality as the No. 1 hard wheat, will substantially make just as much flour, of just as good quality, but under the system of grading, by reason of the lightness of the poorer grade,

there is perhaps a 'spread' of all the way from 10 to 20 cents per bushel of 60 pounds.

"Prof. Ladd, president of the North Dakota Agricultural College, and one of the most eminent chemists and scientists of the United States, and well known and his ability recognized in foreign nations, has demonstrated scientifically that the poorer grades of wheat, such as above referred to, are substantially of just as good milling value and produce flour equally of as high a grade as that of the highest grade of wheat, and he concludes, and we agree with this conclusion, that the fair and equitable method of marketing wheat is to base the price thereof on the milling value thereof.

"It has been estimated that the loss to the farmers of this state by loss in grades and the values fixed thereby, instead of by the milling value, coupled with the loss by dockage and the failure to pay for the dockage, together with many other elements of loss in the marketing of wheat outside of the state, including the loss of the fertility to the soil by the failure to feed any of the by-products thereof to stock within the state, thereby enriching and revitalizing it, represents an annual loss of perhaps \$55,000,000⁵ to the wheat raisers of this state. "There is also indisputably considerable loss in the marketing of other grains, all of which, taken together,

⁵ The absurdity of this statement is self-evident. It is based on a supposed estimate which was attributed by John Worst, the former president of the North Dakota Agricultural College, to Professor E. F. Ladd who at that time was the state's pure food inspector, though its making has since been denied by its alleged author. According to Judge Grace's opinion the spread between number one wheat and no grade wheat is twenty cents a bushel. The total wheat crop of North Dakota has rarely exceeded 50,000,000 bushels. Twenty cents a bushel would make ten million and not fifty million dollars. Even this estimate would be absurdly high as it presupposes an absolute refusal to recognize any of the higher grades. The statement however was widely circulated and contributed largely to the success of the Non-partisan movement.

aggregate a vast sum. This vast loss is not only a loss to farmers of the state, but it must be as well a loss to the business for it must be done on the profits above production. These vast losses sustained by the farmer are reaped as rewards by the great elevators and milling interests, commission firms, chambers of commerce, located in Minneapolis, St. Paul and Duluth, or other cities outside the state. Into their hands they have passed as profits, never to return to the farmers or business interests of the State of North Dakota. To prevent these losses, to retain in the State of North Dakota in the future these lost profits, to pay the farmer the full value of the product of the soil produced by him, and thus by so doing to secure the prosperity of every business and of every inhabitant of the state, and thus promote the general and common welfare of every inhabitant of the state, the Constitution has been amended, laws enacted, and bonds by the Legislature authorized and issued for the purpose of affording the producers of grain within this state a market where they will receive the full value of their products."

And the radicals were not the only protestants. On August 4, 1916, in a speech in the United States Senate, Senator Porter J. McCumber said:

"So far the Congress has been deaf to their cries for assistance, until the farmers themselves in my state and in other states have been forced to take drastic measures. They asked for Federal supervision of the grain trade. The Congress of the United States denied it. They asked for Federal standardization. The Congress denied it. They asked for Federal inspection. The Congress denied it. They presented to the Congress of the United States the fact that they, being compelled to sell their product in another state, had no control, by legislation

or otherwise, of the rules which govern the selling of that product. Still the ears of Congress were deaf to that cry. So in my own state, exasperated beyond endurance, they asked for an amendment to the constitution of the State of North Dakota which would allow the state to purchase or erect an elevator at the great terminals and to be able to handle their own grain, and escape, if possible, some of the injustices they suffered at the hands of this great grain system.

"The state having failed to pass the necessary legislation, there followed a great farm organization in the State of North Dakota. That organization nominated its own men in the great political parties, and with an overwhelming majority it succeeded in electing at the primaries those men whom it had chosen to carry out its views. It may be that some may regard their purposes as radical, but here are some of the things that they are demanding, and they are things that they will carry out before they get through:

"The first is a terminal elevator or elevators in which they will handle their own grain by their own state in a foreign state.

"Secondly, they are determined now to provide for state packing plants.

"Third, they are determined to have state insurance.

"Fourth, they are determined to have a system of rural credits.

"That element, which was initiated in the state of North Dakota, is not going to stop its operations. Minnesota will feel it. South Dakota will feel its influence, and these grain elevators and this great grain system that have so persistently defied the honest demands of the farming element for honest grading and honest inspection have been cutting their own throats,

"I am seeking to assist them as much as I can in securing honest standards by securing a Government supervision that will insure confidence in every certificate that is being issued.

"Every interest in the United States that is opposing the just demands of the rural population of this country will be called to account in the very near future. If the farmers can not secure justice in the only forum that will reach beyond state borders, they must necessarily take all matters into their own hands and govern all state legislation. They do not ask for anything that is unfair. They do not ask for the enactment of any wild or radical theories. Give them straight, fair justice, and they will go on with their labors with patience without attempting to interfere with other lines of business. But I say, Mr. President, that they have been calling in vain for any real beneficial legislation.

"Why, in my own state they have read over your rural-credits bill. They are not blind to the fact that it is topheavy, expensive, complex, and that it will never give them the character of relief that they seek. So to-day they are seeking to secure real beneficial legislation through state instrumentalities. If the governmental system is made simple and easy of operation, if it is made effective, there will be no necessity for any state legislation upon the subject. But when they asked for bread you gave them a stone; when they asked for a rural-credits bill you gave them a mighty system, designed mainly to afford remunerative positions for deserving politicians. They have therefore been compelled to seek, through their own legislatures, the relief that they hoped would be nation-wide."

Though there is much exaggeration, there is much truth in all of these statements and half truths are

always effective in politics. Of course there is another side and throughout the North Dakota enthusiasts have failed to realize that it has been the enormous investment of capital in the flour mills of Minneapolis and Duluth that has given to them their principal market and that has greatly developed the foreign trade in flour which has had so much to do with increasing the value of the northern wheat. On account of the nature of the soil on which it is raised and of the cold and semi-arid climatic conditions which prevail in the wheat area of the Northwest, the wheat of North Dakota is of a peculiar and much prized quality. It makes a whiter flour and a flour which makes a much larger loaf than the same weight of other grades will make. This flour, when milled according to the Minneapolis processes, is especially valuable for export purposes, and is readily sold in the European markets.

The result has been an ever-increasing demand for what is called the hard wheat white flour of the North, and the millers of Minneapolis have built up an enormous export trade. By means of this trade they have not only given an increased value to hard wheat throughout the world, but they have been often able to pay larger prices on the Minneapolis market for the raw product than has been paid at Chicago or other markets. All this, however, has been the result of many years of repeated experiments and of enormous expenditures of money both in mills, machinery and investigation. The flour industry of the city of Minneapolis is an enormous industry and the mills there located are gigantic structures. They have cost staggering sums of money. It is quite clear that without the expenditure of millions of dollars, which would have to be raised by increased tax levies which the people never would and perhaps never could pay, it would be impossible for North Dakota to build state-owned

mills of sufficient capacity to grind its wheat into flour. The thought of duplicating the Minneapolis mills is absurd, and it is beyond belief that a state-owned and politically-managed state mill would employ the expert and high salaried millers, chemists, bacteriologists and similar employees all of whom are employed by the Minneapolis mills and the employment of whom in these days of expert and world-wide competition is absolutely essential to the milling industry. The capacity of the North Dakota state-owned flour mill at Drake is only 125 barrels a day and that of the partially constructed mill at Grand Forks is only 3000 barrels, and this is at the present time, and for some years to come will be, the limit of the North Dakota possibility. Even these investments have largely increased the state's bonded indebtedness and have largely increased the state's rate of taxation, and, at the present time, on account of a lack of funds, building operations have been discontinued on the Grand Forks mill and elevator. Compared with this possible output we find that the annual production of the Minneapolis mills alone is 17,000,000 barrels. When we come to the question of terminal elevators and of storage we find that the possible capacity of the Grand Forks elevator will only be 1,500,000 bushels while that of the Minneapolis elevators alone is 56,150,000 bushels.

Complaint was also made that in North Dakota there were no agencies, such as in Germany, France, Denmark, and New Zealand, for rural-credit associations and arrangements with the government to enable men of small means to make long-time loans for agricultural purposes, and that since land was noticeably good security its owners were compelled to pay unreasonably large rates of interest. Except in a few of the newly-settled and semi-arid counties in the western part of the state, this

is a grievance of the past rather than of the present, for the owners of the well-tilled lands of the eastern portion have now, or at any rate prior to the agitation and distrust occasioned by the League's activities, have had but little difficulty in securing loans at reasonable rates. In the newer counties of the West, however, the complaint is more real and more insistent. Real because the land sooner or later will be worth the money loaned and though mortgages may have to be foreclosed and the investors may for a time be deprived of their interest they will be sure in the long run to profit by their investment. Unreal because the semi-arid climatic conditions of the western portion of the state, the numerous crop failures, and the nomadic character of all early settlers and homesteaders make the investment a very uncertain source of income and the foreclosure of mortgages and the holding of vacant lands at a long distance and for a long time is the last of the desires of the teachers, ministers and other persons who usually purchase the farm mortgages of the West. Unreal in short because unsatisfactory security always and necessarily means a high rate of interest and even the state itself can hardly afford to speculate with its investments.⁶

To a degree relief was afforded by the Federal Farm Loan Act of 1916, which provided for the creation of a Federal Farm Loan Board, federal land banks, farm-loan associations and joint-stock land banks which can

⁶ All that Governor Frazier asked in his inaugural address was that the contract rate of interest should be reduced from 10 to 8 per cent, and as a matter of fact the rate on farm mortgages in the better farmed and more settled portions of the state for several years prior to that time had been lower than the rate requested. It is also a noticeable fact that the Bank of North Dakota when advancing money to the local banks, has itself exacted four per cent interest on the advance. How these local banks could well loan to the farmers out of these funds at a lesser rate than eight per cent and pay their expenses it is difficult to imagine.

lend on farm-mortgage security and issue farm-loan bonds on the basis of these securities, the interest on the farm-loan bonds being fixed at a maximum of five per cent and on mortgage loans at six per cent. However, though in November 1917 there were 3,365 farm-loan associations in operation and the first annual report of the Federal Farm Loan Board showed that \$29,824,655 had been loaned up to that time, it also showed that \$219,760,740, had been applied for; and the second report made to the 65th Congress also showed that from the time of the organization up to November 30, 1918, though \$406,542,109 had been applied for, loans to the amount of \$131,992,765 had been cancelled or rejected and loans to the amount of \$251,617,705 only, had been approved. The act, in short, was national in its scope, the demand was far greater than the supply, and above all the board was conservative in its methods of business and was limited to loans of fifty per cent of the value of the property plus twenty per cent of the value of the improvements. It naturally insisted on its own appraisers, and it was necessarily more or less slow in its advances and in accepting and making the loans. The farmers on the other hand were anxious for their money and impatient at all delay, and they were especially incensed at the careful though proper scrutiny which was made of their securities and of the margins of safety that were required. They therefore hit upon the expedient of a state-owned bank and local loan agencies which would be subject to local public opinion and which would therefore be more liberal in their methods and in their appraisements.

In all of their schemes, however, and in all of their protests against the banking interests and what their leaders choose to term "Big Business," the supporters of the League have lost sight of the fact that in the nature

of things North Dakota never has been and perhaps never can be financially self-sustaining, and that even a state-owned bank cannot solve the difficulty. There is a limit to the taxation that the people of a state will bear and that limit will control the funds at the disposal of even a state-owned institution. It is true that state bonds may be sold and that their proceeds may be used for banking capital, but the interest on these bonds must be paid and the only means of payment is taxation. Even though all of the moneys which are raised by general taxation are required to be deposited in the central institution, the current expenses of the state and its municipalities must be met as they fall due and the deposits of the bank will be constantly drawn upon and depleted.

And not only will it be impossible for the central bank to meet the demands of the farmers for regular farm mortgage loans but it will be impossible for it to finance the movement of the crops and to meet the demands of the local banks for funds to enable them to carry the accounts of the farmers and of the local merchants who in turn extend credit to the farmer during the long period which intervenes between sowing and reaping.

In spite of the promises of its promoters, during the period between January 1 and August 31, 1920, the Bank of North Dakota was only able or willing to loan about \$3,000,000 for agricultural purposes, while during the same period of time the loans which were made by the Federal Reserve Bank of Minneapolis to the North Dakota private banks, to enable them to carry their farm customers, reached the total of \$7,646,165.33, and the loans which were made by the state and national banks of St. Paul and Minneapolis to the North Dakota banks for the same purposes amounted to the sum of \$23,836,804.19. Even these totals do not include the

money which was directly loaned by these banks to their private North Dakota customers, nor the enormous volume of credit that was granted by the wholesale and jobbing houses of St. Paul, Minneapolis and Duluth and of the eastern cities generally to the merchants of North Dakota and which was necessary in order to allow these merchants to sell on credit and to carry their farmer customers.

No state of the American Union, and perhaps least of all North Dakota, can live by itself or unto itself.

But even if all of the grievances be conceded, there is a serious question whether there was any need for the Non-partisan League as a political party. North Dakota is a purely agricultural state. Even the merchants, the bankers and the professional men depend upon the crops for their profits and for their success. The majority of them are themselves landowners. The higher the grades, the better the prices, the higher will be their own returns. Nearly all of them extend credit to the farmer and anxiously await the harvest in order that their bills may be paid. For many years the farmers have dominated the councils of the North Dakota legislature and never at any time has any measure been adopted which the farmers have really opposed or any measure of relief long been refused which they really believed in and really supported. We may even question, and the later developments in both North Dakota and Minnesota seem to emphasize the doubt, whether the second election of Governor Frazier would ever have been opposed if the League had adhered to its original program and had not joined hands with the socialists and the I. W. W.'s, if it had left the school system and the courts alone, and if it had not sought to bring about its industrial system by coercion rather than by argument.

CHAPTER VI

THE TERMINAL ELEVATOR AND THE LEGISLATIVE SESSION OF 1915

THE crash came in 1915, during the last term of Governor Hanna.

For many years the farmers had experimented with a number of coöperative enterprises, chief among these were so-called farmers' elevators. These elevators, however, though operated on a profit sharing basis, shared their profits only with their own stockholders and soon became close corporations and but little different from their so-called old-line competitors. Crop failures often induced the poorer stockholders to sell their holdings to their richer associates, and the farmer's well-known love for dividends at the expense of necessary repairs and poor management occasioned frequent financial difficulties, which in most cases led to the stock being purchased by a few, and to a one-man control. They had to sell in the central markets, and to accept the grades of these markets. As their officers and agents had no seats on the boards of trade and chambers of commerce, they were compelled to sell through the regular commission houses.

In order to meet this difficulty, an Equity Coöperative Exchange was next established in 1909, which soon built a terminal elevator of its own at St. Paul and undertook to act as a farmers' general selling-agency. The Chamber of Commerce of Minneapolis, however, unwisely denied a seat upon its floors to the officers of this organization,

and it was even charged that it threatened the eastern grain buyers that they could buy no more grain through its members if they patronized the Exchange.

This action has occasioned much of the controversy, and much of the discontent. The reasons given for it at the time were that the rules of the board excluded institutions which shared their profits with their customers; and in defending this action in an address given before the marketing Committee of Seventeen of the American Federation of Farm Bureaus on November 6, 1920, Julius K. Barnes, a former director-general of the United States Grain Corporation, stated that while he was not familiar with the rules of all exchanges his personal opinion was "that to permit coöperative agencies to hold membership would be unfair to commission houses and other interests which have established and maintained the market system thus far. Huge investments in the marketing business by private firms would be jeopardized by the swing of business to the coöperative concerns from which profits would revert to farmers."

A further reason which was given during the campaign of 1920 was that serious doubt had been entertained as to the financial responsibility of both Mr. Loftus, the president of the Equity Exchange who sought the membership, and of the institution which he represented.

However, if this was the reason, it was not the sole and controlling one. Since that time and in spite of the fact that legislation compelling the privilege has been threatened in both the state and national legislatures by the farmers' organizations,¹ the Chamber of Commerce, though expressing its willingness to admit members Federation of Farm Bureaus, adopted the following resolution:

¹On November 6, 1920, the executive committee of the American

"Whereas, The principal grain exchanges of the United States bar coöperative companies, that distribute their profits in proportion to the

who share their profits with their stock-holders in the form of dividends, has strenuously declined to extend that privilege to those who share them with their customers generally.

Whatever may have been the reason, and whatever justification or lack of justification there may have been for the course which was pursued, the action of the Minneapolis Chamber of Commerce was a body blow to the coöperative movement in North Dakota; and thereafter the Equity Exchange was in no better position than the individual farmer. It had to sell through the regular commission houses. Its elevator could store but a limited quantity of grain, and it therefore could not possibly become an independent selling agency nor establish an independent market to which the eastern grain buyers would resort.

The next step, then, was an attempt by the Society of Equity and the Equity Selling Exchange to induce the legislature of North Dakota to appropriate money for the building of a state-owned terminal elevator which, together with that already owned by the Equity Exchange, it was hoped would be able to store enough wheat to create the independent market so earnestly desired.²

volume of business handled, from participating in the buying and selling of farm products, and,

"Whereas, The same prevents producers from collectively selling their own products on the markets of the country, thereby creating a monopoly, which is not in harmony with the spirit of American institutions;

"Therefore, Be It Resolved: That we call on the Federal Trade Commission, the Attorney-General or other public authority to take such steps as may be necessary to open the said markets to the membership of coöperative companies, unless the grain exchanges shall voluntarily do the same at once."

The Minnesota Legislature of 1921 compelled the granting of the privilege.

²Just as in the early days, under the leadership of the Populists and of the Grange, the grain raisers of North Dakota had sought to obtain the erection of a similar warehouse at Duluth.

In order that this might be done constitutionally and a fund created, in 1912 they obtained an amendment to the constitution which authorized the legislative assembly "to provide by law for the erection, purchasing or leasing and operation of one or more terminal grain elevators in the states of Minnesota or Wisconsin, or both, to be maintained and operated in such manner as the legislative assembly shall prescribe, and provide for inspection, weighing and grading of all grain received in such elevator or elevators."³ In 1913 the legislature imposed "a mill tax of one eighth of a mill on every dollar of the assessed valuation of all taxable property for the years 1914, 1915 and 1916 for the creation of a sinking fund for the erection of such building and buildings," and further provided that the Board of Control should investigate and submit plans to the legislature of 1915. In 1914 another amendment was adopted which permitted the erection of a similar elevator within the borders of the state.⁴

So far there seems to have been no serious controversy, though many may have doubted the feasibility of the plan. In the fall of 1914, however, a change of political fortunes occurred in the state, and Governor Louis B. Hanna not only defeated his progressive opponents at the primaries, but defeated the Democratic candidate at the fall elections. Though by no means a stand-patter, Governor Hanna in the past had had his political friends among this faction and was generally looked upon as one. His campaign at any rate had been largely fought

³The popular vote on this amendment was:

Yes	56,488
No	18,864

⁴The popular vote on this amendment was:

Yes	51,507
No	18,483

out on the theory of retrenchment and much stress had been laid on the extravagant creation of commissions and the increase of state expenditures. The mill-tax which had been levied for the new enterprise was therefore repealed and in its place an appropriation was made of \$1000 for each of the years 1915 and 1916 and a sum equal to this amount was authorized to be expended in investigation and the drawing of plans, the results to be submitted to the legislature of 1917. This was the beginning of a bitter fight in which the Society of Equity and the Equity Exchange took an active part under the leadership of its president, George Loftus of St. Paul, and which culminated in the legislative session of 1915.

At this session the committee reported against the enterprise and announced that after a thorough examination of the question and the workings of state-owned elevators in the Canadian provinces, it had come to the conclusion that state-ownership was unwise and that the matter should be left entirely to coöperative effort. A bitter contest ensued in which the Society of Equity again took an active part and again under the leadership of George Loftus. Mass meetings of farmers were called and Senator La Follette's tactics of calling the roll, amidst hisses and jeers for those who had voted against the enterprise, were used,⁵ and the report was finally, and it appears to the writer, unwisely adopted. Unwisely because though the attempt might have proved a failure, it at that time called for the expenditure of a compara-

⁵ These tactics antagonized many conscientious members of the legislature and probably had much to do with the adoption of the report of the committee and the defeat of the proposition for the erection of the elevator.

However, many of the members voted against the measure on strictly business grounds, their chief objection being that not only was the money at the disposal of the legislature inadequate for the purpose but that, since the bill called for the erection of the elevator at St. Paul, it

tively small sum of money and there can be no doubt that the people at that time wanted and demanded the construction of the elevator and both parties had solemnly committed themselves to its erection.

Whether wisely or not, however, the abandonment of the measure furnished a fitting pretext for a revolution, and for the organization of a new party which should justify its creation by the charge that North Dakota had once more come under the control of the "Big Business" interests, and in February 1915, the Non-partisan League was born.

would place the enterprise outside of the control of the state and beyond the operation of its laws. The justice of this latter criticism now seems to be conceded by the Non-partisan management itself and the large elevator which is now under construction is at Grand Forks in North Dakota and not at St. Paul or elsewhere beyond the borders of the state.

CHAPTER VII

THE LEAGUE AND ITS SOCIALIST LEADERSHIP

WHATEVER may be the political and economic beliefs of the individual adherents of the Non-partisan League, there can be no doubt that from the beginning its leadership has been composed of consistent socialists.

It was a socialist, A. C. Bowen, who first suggested its formation. It was another socialist, A. C. Townley, who first put the L in it, and who furnished the dynamics. It was the socialist Charles Edward Russell who was the first editor of its principal organ, *The Non-partisan Leader*, and who first dictated and outlined the League's economic and industrial policies. It was still another socialist, Walter Thomas Mills, who suggested the greater part of its laws.

The story of A. C. Townley is the old, old story, and shows with little variation the old, old evolution—poverty, a get-rich-quick-Wallingford dream of wealth; failure, a dream of a socialist state, and then a dream of kingship. Townley was born on a farm in northwestern Minnesota in 1880; he started in poverty, his education was that of the common schools of a pioneer country, but he dreamed of vast landed estates. He attempted to acquire lands in Colorado and failed. He then went to Beach in the western part of North Dakota and, looking over the rolling prairies, dreamed that they might be his. In 1909 he bought or leased thousands of acres of wild land. He obtained credit from the machinery and oil companies and from the local merchants. He bought

tractors and farming implements. He believed that the crops of a virgin soil would make him rich in a few years. He dreamed of becoming a flax king. But he failed, and became a bankrupt, owing nearly \$80,000. Having failed under the present industrial system, he became a socialist organizer and dreamed of a socialist state. The next step was to dream of himself as its dictator. Then, perhaps fearing that reverses might come, he promoted and is now a stockholder in a sisal plantation in the State of Florida.

A. E. Bowen was twice candidate for governor of North Dakota on the Socialist ticket, his last attempt being made in 1912. In 1914 he was a candidate for the legislature from the thirty-ninth district, which at that time comprised the counties of Bowman, Golden Valley and Billings. During the session of 1917, he acted as clerk of the House of Representatives. Prior to the organization of the League, he was a consistent socialist, and does not appear to have been identified with the Society of Equity, or any other farm organizations or movements.

But neither Townley nor Bowen was a North Dakota farmer, and they could do little alone. They therefore sought the aid of a North Dakota farmer, Fred B. Wood, who was also a socialist, but one whose reputation and acquaintance among the bona fide farmers of the state might be of value to them. They induced Wood to sign a note, and with it they purchased an automobile. The three then started out to obtain members, and thus the League began.

Fred B. Wood had for some time been prominent in the councils of the Society of Equity, and though a landed proprietor, and perhaps the only real farmer among the Non-partisan League leaders, had in the past allied him-

self with the Socialist party, and at one time had been a candidate for county auditor on the Socialist ticket of Ward County.

Both Townley and Bowen had closely watched the struggle for the passage of the terminal elevator bill in the session of 1915, and for several years prior thereto, they had watched the career of the president of the Equity Exchange, George S. Loftus, and, though not themselves members of the Society of Equity, they had often sat in Loftus' audiences. From him they learned the political value of the class appeal, and from the success of his campaigns for the constitutional amendments which made possible the construction of the terminal elevators, they sensed the extent of the popular discontent and the solidarity of the farmer vote and influence. Loftus was an orator, impassioned in manner, but at the same time a careful student of his audiences. He understood the value of the claqueur and made use of that method of influencing his auditors.

It was his custom during an address to have in the room prominent farmers with whom he had conferred beforehand, who would answer his questions. In the midst of a speech, he would ask, "What is the price of hogs? Jones, you are a prominent farmer, you know; tell us," and Jones would proudly answer, and not only would Jones from that moment be his friend, but the audience as a whole would be gratified because the orator had taken council with them. Loftus indeed thoroughly understood the psychology of the popular audience, and Townley sat at his feet and learned from him. As an orator he is a replica of Loftus.

Of George S. Loftus, William Langer, the former attorney general of the Non-partisan League, and later in 1921 the candidate of the Independents for governor

in opposition to it, in a pamphlet entitled "The Non-partisan League" says:

"Mr. Loftus was the embodiment of energy. When he first came to North Dakota to lead the fight he was in his prime, perhaps forty-one or forty-two years of age. He was a tall, healthy, robust, virile man. He was as fearless as he was uncompromising. He stumped North Dakota in behalf of the Equity Co-operative Exchange of St. Paul, Minnesota. The fight on Mr. Loftus was waged without regard to cost. The leading newspapers of the state deliberately lied about him. His methods were sneered at. He was ridiculed, maligned, cartooned, and, figuratively speaking, crucified. He fought *not for socialism and personal power*, but he fought these and his principles were the opposite. Instead of being an autocrat in control of an organization, he was, and he always remembered it and boasted of it, an employee.

"Mr. Loftus was backed by United States Senator Robert LaFollette of Wisconsin, by John M. Anderson of St. Paul, and by Benjamin Drake of Minneapolis, by Congressman George M. Young of Valley City, and by others. It took money to promote the coöperative ideas as embodied in this company. It was Loftus' dream to make it the largest coöperative grain concern in the world and have it head the establishment of a new Board of Trade at St. Paul, Minnesota.

"Repeatedly I had the pleasure of speaking with him on the same platform, and no enthusiastic political convention ever contained a finer spirit of coöperation than was ordinarily found in some of Mr. Loftus' meetings."

Loftus, however, was not a socialist; and though his campaign methods were carefully studied and imitated, the League's political and economic theories were derived

from more radical sources, principally from Charles Edward Russell and Walter Thomas Mills.

Charles Edward Russell was the first editor of the League's paper, *The Non-partisan Leader*, and had much to do with forming the early policies of the organization, and in directing its movements. He for many years had been a socialist writer and lecturer, and there can be no doubt that Townley sought his aid because he himself had formerly belonged to the same party.

Walter Thomas Mills has not only been one of the League's principal campaign speakers but has taken a large part in drafting its legislation.

He has been long known as a socialist writer, lecturer and teacher. He started as a Methodist minister. He then dreamed of wealth. He organized several stock-selling enterprises. These failed. He then dreamed of a socialist state and of a socialist world and he sought to make of himself a socialist dictator in Australia, in New Zealand and in America.¹

In 1916 he was the Socialist candidate for the office of United States senator from California. Prior to that time he had been one of the principal organizers of the great labor strike or soviet movement in New Zealand in 1913 which sought to begin a socialistic or soviet program by assuming control of the railroads and of the shipping industries. It is a significant fact and one of the paradoxes of history, that this strike was put down by the farmers of the country whose opportunity to ship to foreign markets was so seriously threatened, and who,

¹ After all, this is the get rich Wallingford story of nearly all our American Socialist leaders. Even after becoming socialists they seldom refuse to profit and to acquire wealth under the present industrial system. Though professedly not believing in private property and in the unearned increment, they have perhaps a tenderer love and affection for these forbidden things than the members of any other class.

organizing as a voluntary working force and constabulary, armed themselves with American axe handles and themselves loaded the ships which were lying idle at the wharves. It is significant because here in America the farmers have not only everywhere flocked to hear this socialist orator and organizer but have allowed him to take a prominent part in the amendment of their constitutions and in the enactment of their laws.

The League's first business manager was David C. Coates, who some years before had been elected lieutenant-governor of Colorado, and had run for the office of city commissioner of Spokane, Washington, on the Socialist ticket. He is credited with having perfected the organization of the I. W. W. in 1905. He was especially prominent as a director of the activities of the Non-partisan legislature of 1917. He at one time was the editor of its principal paper, *The Non-partisan Leader*. He is credited with being the originator of the Non-partisan secret caucus which is held behind closed doors and a vote of the majority of which has always been made binding upon its members, obedience to the majority vote being exacted as a party pledge.² Later, in connection

²The following is the pledge which is exacted of the League's legislative candidates:

ACCEPTANCE OF ENDORSEMENT BY THE

NATIONAL NON-PARTISAN LEAGUE OF NORTH DAKOTA

Moffit, North Dakota, Sept. 18, 1920.

"I, the undersigned, accept the endorsement as the Non-partisan League candidate for the office of member HOUSE OF REPRESENTATIVES from the twenty-seventh legislative district to run as an independent, my name to appear in the "Individual Nominations" column in the ballot to be voted on November 2, 1920.

"I agree that, if I am elected, I will at all times vote and work for those measures that will assure justice to the farmers and workers and to all people of the state in accordance with the progressive and cardinal principles of the League and the wishes of my constituency. I agree

with Arthur LeSueur he sought to perfect a collective bargaining agreement with the Independent Workers of the World for the employment of farm laborers and which, if perfected, would have made of North Dakota an I. W. W. closed shop.

Townley's principal legal adviser was Arthur LeSueur. Governor Frazier's was William Lemke.

Arthur LeSueur started as a railroad attorney. Later he acquired some wealth as a banker. He then became a socialist leader and agitator. For many years he has been the president of the People's College of Fort Scott, Kansas, which is a socialist correspondence law school and advertises on its letterheads the name of Eugene Debs as its chancellor. He established a school of instruction for the organizers of the Non-partisan League. For many years he has been the principal attorney of the I. W. W. He conducted the defense of William D. Hayward, when that worthy was prosecuted by the Federal Government during the World's War. In 1904 and again in 1910, he was the Socialist candidate for attorney general of North Dakota, and in 1916, he ran for the office of president of the United States on the Socialist ticket.

William Lemke also started in poverty. While a student at the University of North Dakota, he read Richard Harding Davis's novels, *Soldiers of Fortune* and *Captain Macklin*. He dreamed of vast landed possessions

further that during the session of the legislature I will at all times vote and work for those measures and legislative acts that are approved by majority of the members of the legislature elected by the Non-partisan League and organized labor.

Name,

Age, 65.

Occupation, Farmer.

Postoffice address, Moffit, N. D.

Witness.....

(Signed)

in Mexico. He organized a land company. He purchased a vast tract of Mexican land for a song, and by the help of a favorite minister of President Diaz, he hoped to become a Mexican magnate. He failed. He then dreamed of a socialist state in North Dakota and of himself as one of its triumvirate if not its dictator.

This dream has been largely fulfilled for though as a rule the limelight has been thrown on Townley alone, it has been this formerly obscure lawyer of Fargo, who has been after all perhaps the most active figure in the whole movement. It has been he who has been the real political boss, and it has been he who has sat in the legislative throne-rooms. The voice has been the voice of Townley and Russell and Coates and Walter Thomas Mills, but the hands have been the hands of William Lemke. It has been he who has selected the judicial candidates. It has been he who has largely directed the political campaigns. As chairman of the State Republican Central Committee it has been he who has had his hand upon the political levers and controlled the political machinery. It was he, we believe, who, in North Dakota, first made use of the term "Big Biz," which has proved so effective in all of the campaigns, and who first suggested the idea that the all-conclusive and only necessary argument to a class-conscious electorate was the mere statement that all who differed with the social and economic theories of the League were owned and controlled by the "Vested Interests."

The League members of the Supreme Court, from whom much was expected and much was obtained, were Richard H. Grace, Luther E. Birdzell, Harry Bronson and James E. Robinson. These men were selected by William Lemke and their election was secured on the theory that they had committed themselves to the policies

of the League. During the argument in the Supreme Court of the case of *State ex rel. Twitchell v. Hall* one of them, James E. Robinson, candidly admitted from the bench that he had made pre-election promises. During the campaign, also, Mr. Townley and other League orators frequently stated that the election of these Judges was of more importance to the success of the League program than even that of the governor himself; and this statement was reiterated in the League's principal organ, *The Non-partisan Leader*, and in other campaign publications.

Prior to his election, Richard H. Grace had been a party Socialist and organizer, Luther E. Birdzell had been a Single-Taxer, Harry Bronson had been a somewhat radical Progressive Republican.

James E. Robinson for many years had been a tax-title lawyer, and had accumulated some property in the business. In 1908 he conducted an unsuccessful campaign for Congress, in which he adopted the peculiar practise of collecting his audiences by ringing a cow-bell while standing at street corners, on railroad platforms, and on the top of freight cars. In 1912 he was a candidate for the office of Justice of the Supreme Court on a platform in which he promised many fantastic legal reforms; and in which he denounced the lawyers and judges of the past as the tools of the big interests and the servants of corruption.

This campaign was managed by his law partner William Lemke, and though it was unsuccessful, it served both to bring Robinson's name before the people, and as a training school in political methods for his astute manager.

Among other prominent North Dakota League leaders and organizers are: the lieutenant-governor Howard

Wood, who is a party socialist; the bank-examiner O. E. Loftus, who was a candidate for treasurer of North Dakota on the Socialist ticket in 1916; Howard Elliot, who at one time was state manager of the League, and before that time was a socialist, and in 1914 was a candidate for the legislature on the Socialist ticket; Beecher Moore, who also was at one time a state manager for the League and who was formerly a socialist organizer; O. M. Thompson, who for some time was one of the League's most effective organizers and public speakers, and was formerly the editor of *The Iconoclast*, the organ of the Socialist party of North Dakota, and the Reverend George A. Totten, who is at the present time the president of the Board of Administration, which has the control of all educational, charitable and penal institutions of the state, and who is also a socialist. In fact, practically all of the prominent leaders of the League are or once were socialists,³ and soon after the League was organized, Townley advertised in the socialist paper, *The Appeal to Reason*, for organizers and workers.

Of all the leaders of the League Townley and Lemke have been the most influential and the most effective. They have been so because their desire has been for power rather than the acquisition of money or even for political office, and their ambition has been to be kingmakers rather than kings. Although corruption has often been charged against them and the League has in the past and is to-day handling vast sums of money, although its hirelings and especially its organizers and imported speakers and attorneys have been most liberally compen-

³ In a pamphlet entitled "Sovietians, Wreckers of Americanism," Jerry Bacon, the owner of the Grand Forks *Herald* and himself a prominent and unusually successful farmer, gives the names of fifty-nine such persons. This list has so far never been denied or discredited. And what is true of North Dakota is equally true of Minnesota.

sated, profiteering has no doubt not been absent and no doubt these men themselves have not been unwilling to share in the profits of subsidiary enterprises, it would be difficult to prove that they have themselves become rich or that the acquisition of wealth has been their main and paramount purpose. They have been lovers of power rather than vulgar looters, and in politics it is the lover of power who is always the most effective.

As far as Governor Frazier himself is concerned, he is a stolid, unemotional, fullblooded and kindly-hearted farmer. At first he found it difficult to realize his prominence or the reason for his selection by the League, but lately he has come to believe that he must have underrated his abilities. He was graduated from the University of North Dakota in its earlier days, when it was little more than a high school, and owes his adoption by the League to the facts that he was a class-mate of William Lemke, that he was a farmer, and above all to the fact that he appeared to be one who would be willing to serve in the traces rather than to assume leadership. He is in no sense of the term a self-made man, as immediately after his graduation from the university, the sudden death of his father and older brother left him the sole heir to a fertile and well stocked farm in the richest portion of North Dakota. At all times he seems to have relied implicitly on the judgment of Townley and of William Lemke, and to have done everything that they dictated or suggested. At all times he has been willing that North Dakota should be a socialist experiment station and that a movement which was at first only a farmers' movement for better marketing conditions and which is still believed by the rank and file of its members to be such, should be made an entering wedge for the American International.

CHAPTER VIII

THE FINANCING OF THE NON-PARTISAN LEAGUE

THE members of the Non-partisan League of North Dakota have already contributed more money to its various campaigns and for the purposes of propaganda than can ever be expected to be voted by the legislature for the purposes of the League's various industrial enterprises. It is clear that if these members had chosen to adopt the plan of the Society of Equity and to build and control elevators by coöperative effort, and had chosen to spend their money in this way, they would to-day be much farther on the road to the attainment of their desires. As it now is, however, millions of dollars have been spent in political agitation and but one small mill has been purchased and only one large joint elevator and mill has been partially constructed.

Never indeed in the history of the country have such gigantic sums of money been at the disposal of or used by any political party or faction and though the opposition is claimed to represent "Big Biz" the money at the disposal of its candidates has been pitiably inadequate for the conflict and it has been the lack of funds which in North Dakota has been one of the chief causes of its defeat.

From the very beginning the League has had the advantage of a leadership as astute as any ever known in America and of the services of men skilled in the arts of the demagogue, understanding thoroughly the political

value of the class appeal and the psychology of the modern electorate. Perhaps the most brilliant of the ideas of these leaders has been that of a paid membership. The theory of the old political boss was to bribe the voters; the newer Non-Partisan theory is still to bribe its organizers and other hirelings by large salaries and large commissions¹ on the memberships obtained, and at

¹The organizers were first paid \$2.00 for each cash membership. Later they were paid \$4.00 for cash memberships and \$3.50 for those which were paid for by the means of postdated checks. Still later even higher commissions were paid. Often these solicitors would obtain twenty and even more memberships in a single day. Their loyalty to the League can therefore hardly be wondered at, though it hardly can be said to be "without money and without price."

In 1920 these organizers received the following instructions:

"Organization Crews: Get at least four influential league members in each car. Get a book of checks from your local banks. Use the form checks provided by the league as little as possible.

"Accept cash or cash checks in payment of memberships. Encourage every man to give you a check. Your enemies fight with cash—not with postdated checks. Make all checks payable to the captain of your crew.

"On a separate slip of paper write the names and addresses of all men who refuse to join the league, giving one reason for their refusal. This is very important and should not be neglected.

"League members pay \$18 for each 2-year election period. Some may say because they paid their membership fee at the precinct meeting last winter or later, that their membership is paid for 2 years from that. This is not the correct understanding. League memberships are for the 2-year election periods.

"Accept cash for memberships as far as possible. The I. V. A.'s (Independent Voters Association) don't accept postdated checks. They fight with cash. The men who pay cash are more likely to stick and work than the men who give postdated checks.

"Use checks put out by banks upon which the check is drawn. Post dated checks are given by members though they do not ordinarily keep an account in the bank, but with the understanding that when the check is due they will place the money in the bank to pay the check.

"It is better to not make the checks payable to the Non-partisan League, but to make them payable to one or more members of the crew. The checks made payable to members of the crew and endorsed by them are not so easily identified by the bankers and so it is more difficult to many of the bankers to interfere with the farmers paying the check. If members giving postdated checks can be persuaded to pay one or more dollars in cash, making the postdated check 15, 17, or something less than \$18 makes the checks still more difficult of identification as league membership checks and makes it harder for the bankers to interfere with their payment."

the same time to retain the loyalty of its lay members by making them pay to join the organization and thus to become stockholders in and financially interested in the business and political outcome of the movement. "We will stick" has been the battle cry of the League, and just as the gambler sticks to the roulette table on account of the money that he has placed thereon, so the members of the Non-partisan League, who at first paid \$2.50, then \$6.00 and then \$9.00 for a year's membership, and who have in addition often subscribed large sums to the movement ² and invested heavily in the stock of its chain-stores, banks, newspapers and other subsidiary enterprises, have been interested to see what the outcome of their experiment would be and have stuck to the game.

The elections are biennial. In North Dakota alone the League boasts of 50,000 members. A contribution of only \$18.00 for the two years from each member would make a state campaign fund of \$900,000. To this sum may be added thousands of dollars of larger subscriptions and, now that the party is in control of the state of North Dakota, the services of large numbers of state employees. To it also may be added large sums of money obtained from the hundred-dollar subscriptions to the various league stores which have been made under an agreement that all over the sum of \$10,000 can be used for spreading abroad the propaganda of the League and the amount of which can be guessed at when we realize that in 1918 the average membership of each store was 300. This would make a capital of \$30,000 for each store, \$10,000 of which is to be used for store purposes and \$20,000

² At a meeting which was held at St. Paul after the June, 1919, primary a peremptory demand was made by Townley for a fund of \$800,000 to be raised by voluntary subscriptions of \$100 each by 100 well-to-do farmers in each of the 80 counties of the state. This was to be in addition to the regular membership fees.

for educational purposes. There may also be added the money for promotion purposes which was appropriated by the legislature of 1917, ostensibly for the encouragement of emigration, but really for the traveling expenses of the League's apostles. There may also be added the money for promotion purposes which has been appropriated from the \$17,000,000 state bond issues for the various state-owned institutions and state boards, as well as the money which has been derived from voluntary contributions to the stock of the League's numerous subsidiary newspapers, all of which are engaged in the general propaganda.

It is to be remembered that the state has only 645,730 inhabitants and the amount that can be expended in obtaining but one vote is therefore very large.

No doubt the idea of a paid membership was borrowed from the socialists. It furnished from the very beginning an enormous campaign fund and a large fund for the payment of organizers. It made it possible to start a farmers' newspaper and to employ writers and cartoonists of marked ability, though perhaps not always of the highest veracity or the highest sense of civic obligation. It made it possible to hire and to rent scores of automobiles and to make the automobile an effective campaign agent. It made it possible to purchase aeroplanes and to make of Townley a modern Elijah, who would fly from place to place, and from state to state, and become a messenger from the skies. This last device not only made the prophets ubiquitous but it drew enormous audiences and saved advertising and hall rent. When the speck of the prophet's car was seen in the distance all that was necessary was to light a straw stack or a bonfire, and the orator would know when and where to alight and the expectant multitudes would throng to see and to hear.

CHAPTER IX

THE LEAGUE'S SUBVERSION OF THE PRIMARY SYSTEM AND THE CONSERVATIVE VALUE OF THE INITIATIVE AND THE REFERENDUM

AMONG the interesting features of the Non-partisan movement have been the autocratic methods of the self-appointed leaders, their repudiation of the so-called primary election reforms, and their unique use of the system of primary elections.

Primary elections were championed in this country for many years, and the primary system was finally adopted because the people felt that, under the old system of caucuses and conventions, our government had ceased to be representative, and fatuously believed that the only cure for the ills of democracy was more democracy. However, the people have no voice, and never have had any voice, in the nomination of the officers of the Non-partisan League. As to Townley's own selection, we will let him speak for himself. In an address which was delivered in Grand Forks he said:

"By the way, I want to be very frank with you this afternoon. The Grand Forks *Herald*, and the gang in the senate that killed House Bill 44 of the 1917 session, one of the important league measures, and Everson down here, and all the fellows that oppose this organization, say that I was not elected president of the League.

"They want to know what right I have got to call myself president of the Non-partisan League. I am go-

ing to very frank with you and explain what right I have. When Howard and his father and two or three more of us found that this thing would go, after I had been organizing for four or five days and put on everybody we saw during that time; we saw that it would be necessary to have some kind of committee to take care of it.

"We didn't have automobiles and gasoline enough to go to all the farmers in the state, and to Jerry Bacon and the Grand Forks *Herald*, to ask them who this committee should be.

"So we got busy and picked out a committee. The old gentleman named five men that we knew, and asked this little group of farmers if they thought these men would be all right. By the way, Howard was to be a member of that committee to begin with, because at first, the old gentleman did not know whether he wanted to or not, so Howard was proposed as such a member of the committee. Mr. Wood was suggested as treasurer and vice-president. So we took a piece of paper and wrote the League program on it; and wrote the names of this committee here up at the top; and because I had the idea they named me as chairman of the committee and wrote my name on there as president.

"And then when we went to the farmers we showed them these names and said the League would be carried on under the direction of this committee. And there was a clause there that said in so many words that the management of the funds was to be in the hands of that committee.

"And this fellow, and this fellow (pointing to men in the audience) and every one who joined the League, read the program and those names and signed up and paid his money. And I have got a kind of a foolish idea that all of those men who signed that paper voted for me at

that time. I don't know any one that voted against me.

"And we have got the names of 40,000 farmers, in their own handwriting, on this paper, subscribing to this program and to those men to carry out that program. I think that was a pretty fair election.

"About as good as we could accomplish at that time, with the machinery we had. Of course, it might have been better to have got 4,000 or 5,000 farmers to come down to Grand Forks and hold a convention; but we could not have convinced them at that time that they ought to come.

"I will tell you who would have been here if we had tried to do that. There would have been about half a dozen politicians and corporation lawyers, and a newspaper man or two. But you farmers would not have come. We had to show you first that something should be done, before you would come. Now that is how I came to be president of the committee and how these other men came to be members of the committee."¹

¹In the same connection Justice James Robinson, one of the League's members of the Supreme Court and one of its principal publicists said:

SATURDAY EVENING LETTER

By JUSTICE J. E. ROBINSON

"August 17, 1918. After a harvesting outing of two weeks, I am now at my post of duty. The other Judges are all out harvesting and I do not look for them to return until the end of the month.

"And now, as a Rube fresh from the country, I want to submit a few pointers concerning my old friend, Townley. It seems that among a few of his church deacons and ex-bishops there is a kind of schism. They say that he is a money-grabber and a self-appointed autocrat; but what of Holy Moses, General Booth of the Salvation Army, and Mrs. Mary Baker Eddy, the Christian Scientist? We read of Moses going up into a mountain and there conferring with the Lord for some thirty days, so the poor Hebrew children contrived to pass their hours of idleness by the making of a golden calf. This so enraged Moses that he caused three thousand of the poor people to be slain. Then Moses had a schism among his elders and deacons. Korah, Dathan and Abiram said to him: 'Wherefore lift ye yourselves above the congregation of the Lord? Is it a small thing that thou hast brought us up out of a land that floweth with milk and honey to kill us in

Frequently in private conversations in the hotel lobbies, and upon the railroad trains, Townley has himself stated that if he were to die the League would be torn asunder; and he has as frequently justified his autocratic rule by stating that the farmers were not intelligent enough to look after their own interests, and that an autocrat was

the wilderness except thou makest thyself altogether a prince over us.' Then Moses was very wroth, and he at once arranged with the Lord to have the earth open its mouth and swallow those rebellious men and their innocent wives and children! Now, our Townley has never did anything like that.

"And General Booth, you know how he organized the Salvation Army, appointed himself general and supreme commander and treasurer and appointed all its officers and how he had to encounter schism after schism; and Mrs. Mary Baker Eddy, she had her storms upon storms, she had her schisms—her Korah, Dathan and Abiram, who declared that she was incapable as a leader, and who attempted to supplant her, but she quietly threw them out of the church which she had organized. Of course, in a way, General Booth and Mrs. Mary Baker Eddy were self-appointed leaders and autocrats. Naturally they assumed control over the society which they formed and organized, and every one by joining the society assented to the rule; and so it is with Townley and his League. Everyone, by paying his membership fee and joining the League, has voted for Townley as its president and general manager. He holds office by the unanimous vote of every member of the League. Hence, it cannot be truly said that he is self-appointed. However, it is true that he is the pope and the executive head of the League. He employs and pays a whole army of League workers. He says to one, 'Go,' and he goeth; and to another, 'Come,' and he cometh; and to another, 'Do this,' and he doeth it, or he is excused from service. Townley is a thinker and a faithful worker and he gives to the business of the League all his time and thought. His avowed purpose is to advance great civic reforms and to better the condition of the people. If he fail to 'deliver the goods' he will soon cease to be president, as the Leaguers will cease to pay membership fees. Their payment is a free will offering. It is voluntary. It is not a tax.

"An ex-bishop of the League who is opposed to all forms of autocracy has just written for the St. Paul Dispatch several letters. He concludes by calling on the farmers to assume control of the League and at once to throw off the burden of the autocrat and his machine. He thinks the best way to remedy the defects of the League is to cut off its head, though he does in no way attempt to show how it may be done. If the ex-bishop has a capacity for leadership, the formation of leagues and the advancement of civic reforms he is free to organize a model league of his own and to show how it can be run without any form of autocracy. In the formation of leagues Townley has no monopoly or patent right.

The gate ajar stands free to all
Who seek through its salvation."

absolutely necessary to the success of their cause. When twitted with this autocracy and even when led against their desire to admit the weaknesses and the faults, and often the disloyalty of their leaders, the rank and file of the organization usually answer that Big Business has its bosses and that Townley and his cabinet are at any rate working for the interests of the farmers and of the masses.

What is true of the League of North Dakota is equally true of the National Organization; its officers are self appointed and its board of management is self-perpetuating, and that management has even the power to amend the constitution or articles of association without consulting the membership.

These articles of association contain the following remarkable sections:

SECTION 3

"The management and control of this association is hereby vested in a state committee of each affiliated state, and in a national committee and national executive committee. While the government and control of this association is so vested that those placed in charge may build the organization and maintain and protect it against enemies from without and within, yet the members reserve to themselves all political power. And a majority of the members of this association may indorse and support, or oppose and defeat, any candidate for national office, and may propose and carry out any national legislation; and a majority of the members of this association in any state, may indorse and support, or oppose and defeat, any candidate for state office, and may propose and carry out any state legislation.

SECTION 4

"The state committee of each affiliated state shall consist of three or five resident members. The first state committee shall be appointed by the national executive committee, and they shall hold office until the next state convention and until their successors are elected and qualified.

SECTION 5

"The national committee shall consist of the national executive committee, and of the chairman of the state committee of each affiliated state, who shall hold office by virtue of their position as chairman.

SECTION 6

"The national executive committee shall consist of three members, one of whom shall be the chairman thereof. The first national executive committee shall consist of: A. C. Townley, who shall be chairman of the national executive committee and president of the National Non-partisan League, and he shall hold his office for a period of two years from January 1, 1917; William Lemke, who shall hold his office for a period of four years from said date; and F. B. Wood, who shall hold his office for a period of six years from said date.

"Thereafter, at the end of each two-year period, the national executive committee shall nominate one person as a candidate to succeed the member of the committee whose term expires. Such nomination subject to the approval of the national committee.

SECTION 7

“The national executive committee shall appoint a state executive secretary and manager for each affiliated state, who shall maintain an office within the state and who shall be the executive officer of the association for such state, and secretary of the state committee. He shall be subject to directions, instructions and removal by the national executive committee.

SECTION 9

“The national committee shall hold its annual meeting on the first Tuesday of December in each year, and may hold such other meetings as shall be called by the chairman of the national executive committee, or two members of said executive committee, these meetings to be held at the national headquarters. A majority of the national committee shall have authority to remove any member of any committee or any officer acting for or in behalf of this association.

SECTION 10

“The national executive committee shall be the executive and managing board of this association and, except as limited by these articles, shall have full and complete power and authority to fix, collect and disburse the membership fees and other funds of this association; to control and supervise, generally and specifically, the organization work in the several states; to prepare rules and regulations for the affiliation of other political and industrial organizations; and shall have power and authority to do any and all acts that a private individual may lawfully do.

But it shall have no authority to bind the members of this association for any financial obligation in excess of the dues paid or agreed to be paid by the members.

SECTION 12

“The chairman of the national executive committee shall be the chief executive officer of this association, and except as restricted by these articles or by resolution or motion adopted by the national committee or national executive committee, is empowered to do, perform and carry out, all and singular, the matters, facts and things authorized to be done by the articles in carrying out the purposes of this association.

SECTION 14

“In case a vacancy occurs in the national executive, national or state committee, then such vacancy shall be filled for the unexpired term by the remaining members of such committee.

SECTION 15

“These articles may be amended at any regular or special meeting by a majority of the national committee.

SECTION 17

“The national executive committee shall keep accurate accounts of all moneys received and disbursed by it in carrying out the work of this association; and the books and accounts thereof shall at all times during business hours, be open to the inspection of the members of the national committee; and shall be audited by a public

accountant as often as may be ordered by the national executive or national committees.

SECTION 18

"All other matters, facts, things, powers and duties, proper and necessary to exercise in carrying out the function and purposes of this association, not herein expressly provided for, are hereby expressly delegated to the jurisdiction of the national executive committee.

SECTION 19

"These articles shall be adopted and become the fundamental law of this association upon receiving the approval and signature of the members of the state committees of any two states, and shall be approved and indorsed by all states now or hereafter affiliated with this association, or being organized under this association, in like manner."

Of the nature and purpose of these provisions let Walter Thomas Mills himself speak. In a recent pamphlet he said:

"There can not be a war except between at least two armies. There can not be an army without some one in command. That is the nature of fighting machines. Any other scheme in carrying on a war must necessarily involve an army on one side and a mob on the other. When the mob is organized, equipped and ready for battle, it ceases to be a mob. Then there are two armies.

"With these considerations in mind, let it be asked: Is the Non-partisan League now a democratic organization in the sense that in the selection of its officers, in the writing of its program, and in the carrying on of its work,

it is now governed by its own membership after the same manner in which it proposes that the state and nation shall be governed by its citizens after the state and national programs of the League shall have been adopted.

"The answer is that it is not. The battle is on now, and the war for democracy is at its worst. There must be a commander now. When the war is over and the democracy for which the League is fighting has been established, neither a League nor a commander will then be necessary.

"Let it be plainly said. It is impossible to fight the political machines, built, financed and managed by the great private monopolists, except by the building of a machine with which to fight them. The League came into existence to fight a battle, and battles can be fought only with some one in command. Townley is in command. There is absolutely no way by which the enemies of the common good can break into the organization, secure a voice and influence in its councils or divert it from its purpose. Neither are they able to do so in this instance as they have done so many times before, discredit whoever is in command of a progressive movement through personal abuse, and in that way make impossible an effective battle by destroying confidence in the man in command. No other man living and now in public life in this, or any other country, could command a vote of confidence so absolutely unanimous as could A. C. Townley were the case to rise."

But if the management of the League as a league is autocratic, that of the movement as a political organization is equally so. It has, however, skillfully combined the autocratic with the popular. It has skillfully manipulated the primary election system as a means to its own

ends, and in doing so has resurrected the worst features of the caucus and of the convention.

The purpose of the primary system was to eliminate the political boss and to make it possible for any one to be a candidate at the polls. The League has so manipulated the primaries as to accentuate boss control. It has forced its opponents to resort to its methods and it has sounded the death knell of the real primary.

Its plan has been to hold conventions composed of Townley-appointed delegates, there to nominate the candidates of the League who shall run in the primaries of the dominant political party of the state,² to pledge its members to support those candidates, and by this means to obtain control not only of the dominant political party but of the state government. It is in fact a political party though in name a league, but by being a league and working through the primaries it is able to avoid the disadvantages of being a third party. It is able to make use of the political machinery of the dominant party, and in national campaign years, and in the years in which United States senators are to be elected, to obtain the help of the national management which cares but little for the local interests of the state and is always unwilling that its followers shall vote in the opposite political column.

The League then has had the advantage of both the primary and the caucus systems. It has had the advantage of a definite economic program to which all of its members and candidates have been committed. Irrespective of their original party affiliations its members vote for the same ticket in the primaries of the dominant party,

² In North Dakota and in Minnesota the League sought to control the Republican primaries and all of their members and by far the greater number of the Socialists voted therein. In Montana, however, where the democratic party was in the ascendancy, the members of the League and the Socialists voted in the Democratic primaries.

and for the same persons at the fall elections. On the other hand its opponents as a rule have had no definite economic program to put forward, and have had nothing with which to seduce. Each candidate has stood entirely upon his own feet and there has been no cohesion. The League has been effective in the legislatures because each of its legislative candidates has been pledged in advance to subscribe to the will of the majority and to vote for anything which the majority in the Non-partisan legislative caucuses may approve, and those caucuses have been held behind closed doors and have been controlled by the League's leaders and by the League's claquers.

But there is a silver lining to every cloud. Many of us feared that the initiative and the referendum would only be agencies of unrest and of radicalism. North Dakota, however, has demonstrated that they can be put to conservative uses. Above all, she has shown us that the people as a whole are sound upon economic issues, and upon questions of basic right and basic justice; and that when these matters are properly presented to them and they have really had an opportunity to think, they will generally vote wisely and well. She has shown us but another example of the fact that while a popular majority will often enthusiastically support a demagogue and elect him to office, it will as often vote against the very economic issues which he advocates.

Though indeed in North Dakota, the Non-partisan legislature deprived a conscientious and capable superintendent of public instruction of practically all of her powers, the people restored these powers to her by a referendum vote. By the same means, they adopted an anti-red-flag law which the Non-partisan leadership had repudiated. They compelled an examination by the State Auditor of the books of the Bank of North Dakota,

which before had been denied to them. They prohibited that bank from loaning to whomsoever it pleased, and otherwise safeguarded its investments. They no longer made it obligatory upon the county treasurers to deposit their funds in the central state bank, and thus prevented that bank from loaning to whomsoever it pleased. They repealed an autocratic law which had done much to destroy the freedom of speech and of the press. They repealed a statute which made it a criminal offense to criticise the Non-partisan industrial program.

CHAPTER X

THE LEAGUE'S LEGISLATIVE AND CONSTITUTIONAL PROGRAM

THE Non-partisan League had a decided majority during the legislative sessions of 1917 and 1919, and the legislation of those years may fairly be said to be an expression of its program.

The enactments of the session of 1917 included:

A farmers' coöperative law; a grain inspection law which brought the grain elevators under close state control as to weighing and grading; a law guaranteeing bank deposits; the creation of a dairy commission which was entrusted with publishing information in regard to dairying and detecting and punishing unfair dealing; a fifteen per cent inheritance tax on large fortunes; a state welfare commission; a highway commission; legislation which compelled railroads to furnish cars to all shippers alike, sidetracks to coal mines, and sites for elevators and warehouses on their rights of way and which required them to pay their employees twice a month; a law which gave compensation to those who had served time in jail and had later been found innocent; a law taxing motor-vehicles according to size, and a law reducing tax assessments on farm improvements to five per cent of their actual value.

The legislation of the session of 1919 included:

The total exemption from assessment of all structures and improvements on agricultural lands and the exemp-

tion of the tools, implements and other equipment of the farmer to the amount of \$1,000; the exemption of household goods to the amount of \$300, of clothing and personal effects to the amount of \$300, of town homes to the amount of \$1,000, and of the tools of the workingman generally to the amount of \$300.

The establishment of the Bank of North Dakota which was empowered to receive deposits and was given the custody of the proceeds of all tax levies and of all public funds, and was authorized to make loans on proper security and on "the real or personal property of state-owned utilities, enterprises or industries, in amounts not exceeding its value." The state was also by a constitutional amendment empowered to sell bonds supported by farm and other real estate mortgages to the amount of \$10,000,000, the proceeds of which were to be deposited in the Bank and handled by it.

A system of state hail insurance which levied a flat tax of three cents an acre on all tillable land in the state and in addition required the farmers to pay a sufficient assessment on the number of acres which each used for the production of damageable crops to meet the remainder of the expense and claims. Under this act the amount to be paid for total loss was limited to \$7 an acre, and all farmers were considered to be subject to the act unless they gave an official notice of their withdrawal.

The creation of an industrial commission, with an appropriation of \$5,000,000, which was to superintend and control all the state industries and industrial establishments.

An amendment to the grain inspection law of 1917, which, in addition to giving the State Grain Inspector the power by himself or through his deputies of inspecting all grain marketed in the state, gave him the further power

to inspect weights and measures, to establish fair margins on which elevators might do business, to compel payment for dockage, to enforce federal grades on grain bought, to establish uniform grades for grain seeds and other agricultural products and to alter and modify the same and to grant and revoke elevator and buyers' licenses.

An appropriation for a survey of the state's coal resources and possible paying developments.

A soldiers' compensation law with a payment of \$25 for each month of service.

A disability compensation for workmen and workwomen, with funds managed by the state, which, though applicable to practically all industrial employees and even to stenographers and other office help, was not made applicable to the railroad or to the farm workers.

An eight-hour day for women in the industries, but not on the farms.

A minimum wage for women in the industries, but not on the farms.

The inspection of coal mines.

A law directed against the use of injunctions in labor disputes.

A full train crew law and a law requiring proper shelter and protection for railway repair-men.

A state income tax which attempted to make a distinction between earned and unearned incomes.

A home-building association to advance funds for the building of town homes and the acquiring of farms for those who could furnish 20 per cent of the cost.

A law establishing maximum railroad rates based on distance.

A law reducing the number of papers for official printing from three or more to one in each county, the paper

to be first selected by the Industrial Commission, and after 1920 by a vote of the people of the county at each regular election.

An absent voters' law.

An act which authorized the seizure of mines and necessary industries even in the time of peace.

An act creating the office of State Sheriff under which the newly created officer "is given all the powers of other sheriffs," and the power:

"To enforce all the criminal laws of this state; to cause criminal complaints to be filed against persons violating the same; to assist in detecting and investigating crime, procuring evidence thereof, and in arresting and prosecuting persons charged therewith; to suppress riots; prevent affrays and preserve law and order throughout the state; to supervise the members of the state constabulary in the discharge of their official duties; to employ, with the consent and approval of the governor, special agents to carry out the duties of his office and the provisions of this act, provided that not more than three persons shall be employed as special agents at any one time; to call, with the approval of the governor, into the service of the state any members of the state constabulary at any time that it may be deemed necessary to preserve law and order in any part of the state or to apprehend any person who has violated any laws of this state; to make suitable rules and regulations for the state constabulary; to order and direct any sheriff to render any special or particular service which he may deem necessary for the purpose of carrying out the provisions of this act; to coöperate with and assist the governor in the performance of his official duty for the faithful execution of all laws."

No doubt much if not all of this legislation will appear

to the casual reader to be unobjectionable, and all the subject matters which are covered are probably fit fields for legislation. So far, however, we have said nothing of the terroristic legislation of the extra-session of 1919, to which we will devote a separate chapter. A closer analysis also discloses many objects of criticism in the legislation which has been outlined as it indicates the beginning of an autocracy and an entering wedge for the control of the state by a socialist hierarchy.

The legislature abolished a tax commission which was composed of three men, and substituted a one-man office in its place. It did this both for the specific reason that it could not control the activities or the discretion of two of the members of the former board, and for the general reason that a hierarchy can always control one man easier than it can control three.

The Bank of North Dakota presents no new idea. There have been many such banks though unfortunately they have all met with disaster. There is merely involved the old question of governmental efficiency and the old question of political honesty. Can political parties and factions resist the temptation of tampering with their bank officials and inducing them to grant them special favors? Can business and politics walk hand in hand? It is hard for a political appointee to scrutinize closely the securities of a political organization, and of politicians and the friends of politicians to whom perhaps he owes his appointment. It is equally hard for political leaders and office holders to choose bank presidents and cashiers with an eye single to their efficiency. The first president of the Bank of North Dakota had had no real banking experience. In its short career the Bank of North Dakota has certainly shown favoritism and lack of business judg-

ment; and the uses to which the institution has been put can hardly appeal to the conservative mind.

The creation of this bank was heralded by an announcement in one of the League's pamphlets to this effect:

"From the foregoing it may be said that the Bank of North Dakota will save the people of North Dakota say \$10,000,000 a year of interest payments on farm mortgages. It will save about \$4,000,000 on interest rates on the personal loans of merchants and others. It will save great sums in the services it will render for the local bank. It will make available for use in North Dakota all the public funds from the date of their collection in taxes to the hour of their final expenditure for the public purposes for which they are collected. It will provide funds for home building at the lowest possible interest rate. It is not unreasonable to estimate that in interest rates and in increased funds available for business within the state it will be worth \$20,000,000 a year to the people of North Dakota."

On November 25, 1920, however, Mr. Carl Kositzky, the state auditor, reported that:

"The Bank of North Dakota has loaned about \$2,000,000 on real estate at a cost of about \$92,000. During the same period it has made these loans the Board of University and School Lands has loaned \$3,200,000 to the farmers of the state at an administration cost of \$9,000. The people believed the Bank of North Dakota was organized as a rural-credits institution, and it should be made such an institution. The success of the Board of University and School Lands is reason enough for placing it in charge of the bank." ¹

¹The Board of University and School Lands has the control of the permanent investment of the school funds which are derived from the federal land grants. At this time its majority was composed of

A report which was made by the president of the Federal Reserve Bank of Minneapolis in the fall of 1920 also stated that during approximately the same period though the Federal Reserve Bank and the banks of St. Paul and Minneapolis loaned to North Dakota for purely agricultural purposes the sum of \$31,482,969.52, the Bank of North Dakota appeared to be only able to loan the sum of \$3,002,680.91.

It is quite clear indeed that the desire of the League's leaders was not the creation of a bank which should safeguard the public funds or even aid the needy farmer, but the creation of an agency which should be able to loan those funds to the state's public and quasi-public institutions and enterprises, and finance banks and other institutions which supported their cause and were willing to accommodate their members. The control of the bank was placed in the hands of an industrial commission. The members of this commission were appointed by the governor and were removable by the governor. In this bank all of the "state, county, township, municipal and school district funds and the funds of all penal, educational and industrial institutions and all other public funds" were required to be deposited. For the support of the bank also a bond issue of \$2,000,000 was authorized. The funds at the disposal of the bank then would include all of the money raised in the state by taxation, the proceeds of the bond issues and all of the money raised by the sale of the hundreds of thousands of acres of the federal land grant for educational purposes, while awaiting permanent investment by the members of the Board of University and School Lands.

Miss Minnie Nielson, the state superintendent of public instruction, who was elected by the conservatives, and William Langer, the attorney general, and Thomas Hall, the secretary of state, who though elected by the Non-partisans had broken from them,

According to the terms of the act any and all of these funds, without any limitations whatsoever, could be loaned to "any bank or banking association within or without the state upon such terms and conditions as the Industrial Commission shall determine" and to "other departments, institutions, utilities, industries, enterprises or business projects of the state." No requirements were made as to security and it is perfectly apparent that the primary purpose of the Bank was to finance not only the League's industries but also the banks that were favorable to the League. This intention is further evidenced by the provisions of the act in regard to private loans. The statute provided that the bank should not "make loans or give its credit to any individual, association or private corporation except loans secured by duly recorded first mortgages on real estate in the State of North Dakota in amounts not to exceed one-half the value of the security, or secured by warehouse receipts issued by the Industrial Commission or by any licensed warehouse within the state, in amounts not to exceed ninety per cent of the value of the commodities evidenced thereby."

In short, the bank was not intended to be and was not used as a rural-credit agency. It was intended to be an agency which should be able to finance the state's public utilities, and to aid the local banks which were favorable to the League and to the League's members. These local banks were deprived by the act of the county, school and other tax funds which were formerly deposited in them. If they desired the use of any of these funds, it was now necessary for them to apply to the Bank of North Dakota for deposits. The officials of the State Bank of North Dakota could favor whom they pleased. The records of the last year conclusively show that they favored and gave banking capital to the banks that were

favorable to them. They show that though the greater portion of the taxes are paid by the residents of the richer and better farmed counties of the eastern portion of the state, the majority of the banks that were favored with state loans were situated in the western portion, and that it was in the western portion of the state that the League's principal political support was to be found. The act gave the bank the power, after it had made loans to the local banks, to withdraw them suddenly and practically to bankrupt the local institutions on any sign of insubordination. It made it possible to threaten banks with the creation of the financing of rival institutions if they refused to buy the bonds of the newly created public industries or to subscribe to the stock of the League's subsidiary organizations. It made it possible for the officers and organizers of the League to promote and sell stock in local banks and other institutions, under the promise to the subscribers that the central bank would aid in financing the enterprises.

It is also worthy of notice that under the terms of the various acts the books and records of the Bank of North Dakota cannot be examined by the State Auditor, who is an elective officer and subject to public control but are examined by the Bank Examiner, who is an appointee of the Governor; and that the bank is thus brought entirely under the supervision of the socialist hierarchy.

Worthy of notice also is the fact that even the State Bank Examiner is authorized to examine the bank merely as to the assets which are "in its possession and under its control with sufficient thoroughness of investigation to ascertain with reasonable certainty whether the valuations are correctly carried on its books," and that such officer has no authority whatever to examine into or to audit the

liabilities of the institution, or even the assets which are not in its possession.

The grain grading and inspection act provided for appointment by the Governor alone of a member of the faculty of the North Dakota Agricultural College as an inspector of grades, weights and measures.

To this inspector was given the power to establish uniform grades and to issue licenses to all warehouses of grains, seeds and other agricultural products, to hear and determine appeals from the decisions of his subordinates and to conduct investigations with the power to subpœna witnesses and administer oaths and punish for contempt. It also conferred upon the inspector the extraordinary power to establish a reasonable margin to be paid producers of grain by warehouses, elevators, and mills. The act also provided that in establishing grades, dockage should be considered as being of two classes, first, that having value, and second, that having no value; the former to be considered and paid for at its market value. The inspector was also given the power to suspend or revoke licenses. It was made unlawful for any person to buy, weigh or grade grain, seeds or other agricultural products without such a license.

Altogether, the act is of the most drastic kind. The inspector is appointed by the Governor alone and the consent of the Senate is not necessary. The act, in fact, places in the hands of the Governor of the state alone the power to regulate and control its whole agricultural industry. It was claimed by the friends of the bill that, while it was in operation, it worked great good and that under it not only was the inspector able to compel a number of elevators and buyers to discard false weights and measures and to bring about honesty in the grain business generally but that the provision in regard to dockage was

productive of great benefit. Of this we have no doubt. Whether the benefits, however, could ever compensate for the manifest autocracy of such a measure is a matter of less certainty of determination.

The act of 1919 was the successor of the act of 1917, the principal difference being that the latter act conferred upon the inspector the additional power to fix prices as well as grades. Both acts made it unlawful to buy or sell grain or seed which had not been inspected.

Though attacked by a farmer-elevator company, the constitutionality of the act of 1917 had been sustained by the Supreme Court of the State. The opinion, however, had suggested that the particular case that was before it did not involve an interstate commerce transaction, and that as the bill did not attempt to determine the price that anyone should pay, the grading of the grain might be considered merely in the light of advice to the farmer and to the purchaser. It emphasized the fact that no person could be compelled to pay the regulation price on grain which he thought had been over-graded. The new act, however, gave to the inspector the power to regulate prices as well as grades. It was soon attacked in the United States courts in a case which involved an interstate commerce transaction. It was there held unconstitutional as an interference with inter-state commerce and because the federal government had itself undertaken to regulate the matter of grading. It is to be regretted, however, that the court did not pass upon the question of the right of a state to fix prices in cases where interstate commerce was not involved.

The absent voters' law permits all persons expecting to be absent on election day, and all women living more than half a mile from their polling places to vote by mail. It makes it possible for a paid organizer, equipped with

a notary's commission, to round up whole townships, weeks before election. He may first call on each voter with an application form, which the voter signs and mails to the county auditor. In two or three days the applicant receives the blank ballot, and the organizer calls again, perhaps this time with a friend, for the law allows the voter to have help in marking his ballot. The helper must be someone other than the notary, but the two callers might easily persuade the voter to call for help, as he may be unfamiliar with some of the names and in danger of voting wrong.

When the ballot has been marked and folded, it is put in an envelope with the notary's attestation, and mailed to the county auditor. The auditor sends it to the election judges of the proper precinct, who are to open it on election day.

The voter still is given a chance to change his mind and go to the polls on election day. If he gets there before the judges have put his ballot in the box, he may recall it and vote another one.

It is easy to see how this act would destroy secrecy in voting, a principle conceded to be vital in a democracy.

It opens the way for an organization with money and men to argue voters one by one into voting for its ticket, something the corrupt practices law will not allow them to do on election day. It practically extends the election to a period of thirty days, during which time ballots may be marked, sent in, recalled and voted over again; canvassers may harass the voters and the election laws may be turned into a farce.

The public printing law, which required all of the public printing and political and legal advertisements to be published in but one paper in each county, has been defended on the ground of convenience and economy. Since,

however, the measure was passed in the legislative session of January, 1919, and since it provided that until the next general election the favored paper should be selected by the Industrial Commission, it served as an agency to ruin and to suppress, and was no doubt intended to ruin and suppress a large number of independent newspapers, and to give a complete monopoly to the friends of the League during the eighteen months which intervened between January, 1919, and the next general election. It is well known that few country newspapers can be financed without the aid which is derived from legal and political advertising and printing. Even after the election of 1920, it would serve to create a newspaper monopoly in favor of the dominant political faction.

The various employers' liability, industrial insurance and eight-hour laws were enacted merely for propaganda in other states, especially the industrial states; they have no application in North Dakota. These laws are made by their terms expressly to exclude farm labor; yet North Dakota is a purely agricultural state. The State has no large cities, and practically no manufactures. Its population includes probably not more than 5,000 union laborers. It is true that during the harvesting season the state contains an army of transient laborers, but they are farm laborers, and these acts do not apply to them. Even the employees of the railroad companies are not protected by the employers' liability act.

The act however has been made applicable to all other classes of employees, even to stenographers and to office help who certainly are not engaged in hazardous employments. It is therefore able to create a large fund of ready money which under the law is required to be deposited in the Bank of North Dakota and may be loaned by that bank to practically whomsoever it pleases. The

extent to which the creation of this fund has been encouraged is shown by the fact that although those who are engaged in industrial employments in North Dakota are very few and the act does not cover the railroads or the farms, the first year's report which was filed on July 1, 1920, shows receipts of \$539,218.16 and disbursements of \$121,603.09, or a net profit or excess of \$417,615.07.

In the Non-partisan state sheriff act we discover an interesting mediaeval survival. This super-sheriff has an interesting parallel in the feudal coroner or crowner of the middle ages. The Norman monarchs discovered that the Anglo Saxon earls, who in those days supervised the criminal administration of the various counties of England, were too subservient to the local interests, so they created a royal appointee in each county, the sheriff, in their stead. Later they found that even the sheriffs were often influenced by the local landed aristocracy, to which as a rule they belonged, and that often the king's laws and the king's will were not enforced. Though still retaining the sheriff, they then created or resurrected the old Anglo Saxon office of coroner or crowner and gave to this officer the added powers of a super-sheriff, one of which was to watch the sheriffs.

In the twentieth century in North Dakota the Non-partisan hierarchy discovered that often the popularly elected sheriffs were not amenable to control, that they sometimes interfered with disloyal meetings, that they sometimes hesitated in seizing coal mines, that they considered themselves responsible to the people who had elected them and not to a super-lord. They therefore created the office of the state sheriff or super-sheriff, who was to be appointed by the governor and to be removable at his pleasure.

This measure was vigorously assailed as a further

movement towards an autocracy, and was soon repudiated by the people on a general referendum vote. Its defeat was perhaps partially due to a controversy over the appointment during the administration of Governor John Burke of a state prohibition officer, and to the fear of the so-called wet element that the power of the sheriff would be used to their detriment. It is safe to say, however, that the negative vote would not have been so decisive if it had not been for the growing fear of the Townley oligarchy.

Where, indeed, there is confidence in the appointing power, much can be said in favor of the system. It has already been inaugurated in South Dakota, and has been frequently suggested during the recent crime wave which has swept through America. It has even been suggested that all police officers should be appointed by the central authorities, and much may be said in support of the idea. No one indeed can doubt that the remarkable efficiency of the English police is due to the fact that they are appointed from above rather than from below, and that they do not owe their offices to the favor of local politicians, who in turn are often seeking the favors of the disorderly and criminal classes. It is also due to the fact that the policemen are often appointed from outside districts, and are not subject to the restraint of local interests and local friendships.

In addition to this legislation many radical changes to the constitution were attempted, and many were effected.

The constitution was amended so as to permit the state to engage in all kinds of industrial enterprises and, if it so desired, to inaugurate an almost universal scheme of state-ownership. The instrument was then amended so as to permit the loaning of the school funds to these state enterprises, many of which could only prove

financial failures. Formerly the constitution provided that these funds, which were largely the proceeds of the magnificent land grants which the United States had given to the new state of North Dakota, could be invested only in United States bonds, state bonds, and real estate security. Now by the amendment the words, "United States bonds" were stricken out and the words "state and municipal industrial enterprises" were inserted in their place; and not only this but the loans could be made up to the full value, or supposed full value of these industries. Why prohibit loaning on United States bonds, unless perhaps the proceeds of these bonds might be used to promote patriotism and to finance a patriotic war? Why squander and subject to the risk of doubtful investments the heritage of the children of the state, unless socialism is more important than education and state owned enterprises than human characters and human lives?

Perhaps the most important and most to be deplored of all of the amendments was one which provided for the amendment of the constitution by the initiative process and which made it possible, on obtaining the signature of only twenty thousand voters, to initiate an amendment 120 days before a general election, that is to say in the month of July when the farmers would be busy with their farming operations, and to have that amendment voted upon at the November elections, when, and without any further action, the amendment if passed by the votes of the people would become effective. This provision, however, is in direct accord with the League's whole policy which has been to stampede popular thought and to push through its program without thought and without deliberation and by the force of a class appeal and prejudice and passion. It must indeed be clear to all that

four months is not a sufficient time for a law-ignorant, history-ignorant and often misinformed electorate to make radical changes in a constitution and in a system of law and of government and of civilization which has been the result of the experience of the ages and which it has taken centuries to formulate and to create.

Many other amendments were attempted but failed of adoption either on account of the fact that they were introduced in the legislatures of 1915 and 1917 in which the conservatives had a partial control, or because they were later defeated when they were referred to the people.

For instance, Article 8 of the Constitution of North Dakota provides:

"A high degree of intelligence, patriotism, integrity and morality on the part of every voter in a government by the people being necessary in order to secure the continuance of that government and the prosperity and happiness of the people, the legislative assembly shall make provision for the establishment and maintenance of a system of public schools which shall be open to the children of the state of North Dakota, and free from sectarian control. This legislative requirement shall be irrevocable without the consent of the United States and the people of North Dakota."

An amendment was proposed to strike from this Article the words, "A high degree of intelligence, patriotism, integrity and morality on the part of every voter in a government by the people being necessary in order to secure the continuance of that government and the prosperity and happiness of the people."

Why strike out these to all true Americans sacred and self-evident words which were first enshrined in the Northwest Ordinance of 1789? There can be but one

answer. We have elsewhere stated that the propaganda and legislative policy of the League was from the beginning dictated by international socialists, the chief of which were Charles Edward Russell, Walter Thomas Mills, David Coates, and Arthur LeSueur. To the international socialist our American morality is abhorrent because it emphasizes the sacredness of marriage and the value of the home, and, where there are homes and legitimate children, men and women will always seek to acquire private property and insist on private property rights. The socialists are opposed to the word "morality" because, as understood by Americans, it includes sexual morality, and sexual morality brings with it the home and the home instinct and where there is the home there also is "patriotism." The international socialist does not recognize the word "patriotism" and knows no country and no flag.

CHAPTER XI

THE LEAGUE AND PUBLIC EDUCATION

A DETERMINED effort has been made by the League from its very beginning both to control the use of the school funds of the state and to govern the educational policies of all of its institutions of learning. The effort was at first merely retaliatory and was perhaps in a measure justifiable. There can be no doubt of the integrity and single-mindedness of the members of the various boards of regents whom the League found in office when it came into power. There had however been misuses of power in the past and there was a fear that the conservatives might bring about the removal from the Agricultural College of Professor, later United States Senator, E. F. Ladd, who had done valiant service in the matter of pure food investigation and legislation and who was bitterly opposed by many interests, and that they might also remove other persons whose activities had also been distasteful. Often in the past the old-line politicians had attempted, and in some instances succeeded in, eliminating so-called progressives from the teaching forces of the state's institutions. There can be no doubt that from an early time the theory that to the victor belong the spoils had often been extended to the educational institutions and not only were the contracts for buildings and supplies as far as possible given to favored politicians, but the institutions were looked upon as political incubators and every attempt possible was made to see to it

that the graduates therefrom should not be so influenced by their instructors that when they came to the voting age they would vote for anyone but the candidates of the conservative branch of the Republican party or at any rate that they should be "safely and sanely educated."

The desire to control the school boards, for protective and retaliatory purposes, however, soon became a desire to control them for purposes of non-partisan and socialist propaganda and in order that the educational funds of the state might be at the complete disposal of the new hierarchy. There was no desire, perhaps, to confiscate or to steal, but there was a desire to obtain the investment of these funds in the bonds and securities of the various public and quasi-public enterprises which the League had promoted and to make of them a fund which could at all times be drawn upon for temporary loans. There was a desire also to control the social and economic instruction in the public schools and institutions of higher learning so that the cause of state socialism might be favored and the beneficence of the Non-partisan movement might be made clear to the youth of the state. This latter desire was openly expressed by the Rev. George Totten who was one of Governor Frazier's new appointees, and the chairman of the State Educational Commission. It was carried into a concrete form in various sets of examination questions which were prepared for the would-be teachers of the state by the Non-partisan state superintendent of public instruction N. C. MacDonald which required the candidates to "define the Non-partisan league" and to state "the good things" which Governor Frazier and the Non-partisan attorney general had done for the electorate.

In order that these things might be accomplished it was necessary to control both the governing boards of

the various state institutions and the office of State Superintendent of Public Instruction. The latter office was particularly important as its incumbent not only supervised and controlled the instruction in the common schools but she was ex-officio a member of the Board of University and School Lands which was entrusted with the supervision and investment of the schools lands and school funds of the state and, above all, of the federal school land grant.

In the election of 1917 Miss Minnie E. Nielson was the only one of the candidates opposed to the League, who was successful at the polls; she defeated N. C. MacDonald for the office of State Superintendent of Public Instruction. In spite of an unlawful raid on the State Board of Regents, to which we shall afterwards refer, one conservative or old-line member still held a seat on the Board of Regents. The next legislature therefore abolished the State Board of Regents, of which the State Superintendent was ex-officio a member, and which had control of the state's higher institutions of learning, and the Board of Control which had charge of the penal and charitable institutions of the state, and created a new Board of Administration in which was vested practically all of the powers formerly exercised both by the two boards which we have mentioned and by the State Superintendent.

Not only did this measure deprive Miss Nielson of practically all of her powers and prerogatives but it placed in the hands of an appointee of the Governor the control of the purchase and distribution of the books of the traveling libraries of the state. Since at all times the Governor had been merely a puppet, it made it possible for the socialist hierarchy to control not merely the instruction and the teachers to be employed in the various

schools of the state but the propaganda of the traveling libraries also. It made it possible everywhere to emphasize the socialistic viewpoint and everywhere to teach the efficacy of Townleyism. It also placed the school funds of the state in the hands of its new master.

At the head of the new Board of Administration was George Totten. Totten had for a long time been an ardent socialist. He had left the Congregational ministry some years before, we believe, on account of his radical views. He had perhaps not been fairly treated in local politics in Bowman county, where he had preempted land and for some time had edited a local newspaper. He was now an embittered man. He had constantly asserted that the individualist theory had been taught too much in our schools and that social dependence and social right had not been sufficiently emphasized.

Through Totten's influence Dr. Charles E. Stangeland was placed at the head of the Free Library Bureau. Dr. Stangeland's assistant was a Miss Anna Peterson. Both were socialists. Dr. Stangeland at one time had been a subordinate in the American embassy to Great Britain, but for some reason or other he had chosen to resign. During the war he had been indicted for an alleged violation of the Trading with the Enemy Act, though after the armistice the prosecution was dropped.

Under the management of Dr. Stangeland a large number of socialist and radical books were purchased for the library. There were also in the library, and probably purchased for reference use by social investigators, various books by Ellen Key and among them *Love and Marriage* and *Love and Ethics* which openly teach the doctrine of free love.¹ The charge

¹The nature of the works of Ellen Key, and their unsuitness for distribution among the youth of a state through the agency of a circu-

was made and was quite conclusively proved that an attempt was on foot to circulate these books in the travel-

lating library is apparent from the following quotations from "Love and Marriage" and "Love and Ethics."

"In 'Love and Marriage' I pointed out that those who insist upon monogamy (which is one wife for each husband and one husband for each wife) that is, a life-long love relation, as the only moral relationship between the sexes disregard the inevitable consequence of such an ethical standard, NAMELY, THE WASTE OF A LARGE AMOUNT OF SPLENDID LIFE ENERGY WHICH IF UTILIZED WOULD PRODUCE FINE OFFSPRING AND SO AID IN THE IMPROVEMENT OF THE RACE."

"One would suppose that those who attack marriage were trying to destroy a beautiful idyl. As a matter of fact, the horrors of the present system are such that what we should do is compare them with the possible dangers of a new system and see which are to be dreaded the more.

"Are modern marriages good enough for the need of society?"

"How can we find a more efficient ethical code than the present one for improving the species?"

"Such high-strung idealism would produce the same results as the convents in the middle ages, and under present social conditions this standard of morality would hinder the improvement of the species, although the trend of evolution is unmistakably toward real unity of love as the final goal, and although UNITY OF THE SOUL AND THE SENSES CAN ALREADY BE LAID DOWN AS THE CONDITION OF TRUE CHASTITY IN THE UNION OF THE SEXES IN OR OUT OF MARRIAGE."

"From the point of view of the good of the species, THE LEGAL AND ECCLESIASTICAL FORM OF MORALITY CANNOT HOLD ITS GROUND AGAINST THE MOST HIGHLY DEVELOPED SEX CONSCIOUSNESS OF TO-DAY AND ITS ETHICS."

"To think of insisting upon a great lifelong love as the sole moral standard for this varied life!"

"He who so insists has never allowed his thoughts to stray beyond the narrow circle prescribed by his like-minded neighbors!"

"A nation in which marriages are contracted only from deep personal love is at a great disadvantage as against other nations and must perish. In Europe monogamy is established as the absolute moral law. But among such hardy nations as the modern Japanese and the ancient Hebrews we find concubinage an institution sanctioned by law and custom."

THE MODERN SEX PROBLEM

"For this and many other reasons I maintained in 'Love and Marriage' that the modern sex problem consists in finding the proper equilibrium between, on the one hand, the requirements for the improvement of the species, and, on the other hand, the increased demands of the individual to be happy in love; whereas formerly the problem was only between society's demands for fixed marriage forms and the individual's demands to satisfy his sex life in any form. The sex ethics that proceeds from this new equilibrium will be the only true ethics.

ing libraries of the state. And this attempt being discovered, the conservative members of the legislature bitterly opposed and criticised it. The incident perhaps was exaggerated. Of course it would be unfair to charge the attempt to all of the leaders of the League or to all of the state officials. Many of the League's members protested against it. Though perhaps the rank and file might have approved the circulation of the strictly economic works, the great majority would certainly not have favored the circulation of those which dealt with the domestic relations. The fact however, that a man of the character of Dr. Stangeland was placed at the head of the Free Library Bureau and that a pronounced socialist like Totten was made the chairman of the Board of Administration with an autocratic control over the educational policies of the State, is in itself conclusive evidence that in North Dakota an agrarian movement has been captured by a socialist hierarchy and, to quote the language of Miss Minnie Nielson, the Non-partisan League

"All I plead for was greater freedom in love, that we might have the opportunity of observing its effect.

"OF ALL SOCIAL CONCESSIONS TO BE DEMANDED THE MOST ESSENTIAL IS THAT THE STANDARD BY WHICH THE MORALITY OF PARENTHOOD IS MEASURED SHOULD BE NOT THE MARRIAGE RITE BY THE WILL OF TWO HUMAN BEINGS TO ASSURE THE RESPONSIBILITY FOR THEIR CHILDREN; NOT THE LEGITIMACY OF THE CHILDREN, BUT THE KIND OF CHILDREN THEY ARE.

"The second social concession to be insisted upon is that the DISSOLUTION OF MARRIAGE SHOULD BE MADE DEPENDENT UPON THE WILL OF ONE OF THE MARRIED PAIR, and that the man and woman should have equal marital rights.

"The forces of the spiritual life that now radiate in two different directions would be focused were society to protect all children alike, BUT ALLOW INDIVIDUALS TO PROTECT THEIR LOVE.

"The feeling of responsibility for the child's original character IS WEAKENED BY THE CURRENT CONCEPTION OF LEGITIMACY.

"The fact that in some FREE UNIONS also love dies, proves nothing against this POSSIBILITY OF A FINER LOVE THROUGH FREE DIVORCE."

is in North Dakota at any rate "merely the socialist party which is masquerading under the name of a farmers' movement."

There can be no doubt, that though the large majority of the members of the Non-partisan League perhaps are economically sound and are certainly morally pure and are certainly patriotic, they have allowed their organization to become the tool of a handful of political and social radicals to whom nothing that now is is sacred or worthy to be preserved, and whose ultimate aim is the destruction of all that can make our civilization endure.

CHAPTER XII

THE BOARD OF REGENTS CASE AND THE STATE UNIVERSITY

PRIOR to this time, and before the creation of the new Board of Administration, there had been a successful attempt to control the old Board of Regents. In this movement the courts were called upon to lend their aid, and perhaps of all American judicial travesties, the travesty of the so-called North Dakota Board of Regents case is the most pathetic.

In most instances the Non-partisan faction had been successful in the elections of 1914, yet when the legislature convened in the January following it was discovered that the hold-over senators of the opposition were still able to control the upper house. It was therefore difficult for the Governor to secure the approval of all of his nominees and especially for three positions on the State Board of Regents which would become vacant the following July. The majority of the Senate desired the reappointment of the men whose terms of office were to expire, but it is believed they would have consented to reasonable concessions. The Non-partisan management, however, was determined to have the Governor's candidates seated, and a deadlock ensued. The terms of office of the members of the Board of Regents expired, according to the statute creating the board, in the month of July of legislative years. The statute provided that the Governor should nominate the new members and appoint them by and with the consent of a majority of the Senate.

In this instance, however, the Senate refused to confirm the appointment of the Governor's first three nominees. The Governor then, instead of submitting new names to the Senate, refused to take any further action until the first of July, after the legislature had adjourned. He then declared the offices vacant, and proceeded to make his own appointments without so much as consulting the lawmakers. Clearly these appointments, were made contrary to the express terms of the statute, yet the Non-partisan members of the Supreme Court held them to be perfectly valid, though against the vigorous protest of the two holdover judges. The majority of the court, in effect, decided that when the law in express terms provided that the members of the board should be nominated by the Governor and should be appointed by and with the consent of the majority of the Senate, it meant and intended that the Governor could, if he saw fit, make no nominations but wait until the legislature had adjourned and when the terms of office came to an end declare the offices vacant and appoint, himself, the new members and that by violating the terms of the statute he could create vacancies and then fill them by the exercise of his arbitrary power. Manifestly what he could do in the case of the members of the Board of Regents he could by analogy do in the case of all the other important boards of the state, as either the statutes or the constitution provided that the consent of the senate should be necessary to a valid appointment. The action and the decision of the court, therefore, made of the Governor an autocrat and an Oliver Cromwell. Oliver Cromwell, like Governor Frazier, had long been an advocate of parliamentary government and had countenanced the execution of a king because he had dared to question the parliamentary prerogatives. When,

however, he himself was in power and the members of a parliament did not do as he commanded, he marched his troopers into Westminster Hall and turned them out. This was the exact situation in North Dakota and the tragedy in the whole matter is not that a law-ignorant governor so acted, but that a supposedly law-learned supreme court justified the action. But as we have before said the Non-partisan theory is that a judge is a representative merely, and representative must perforce bow to the temporary political majority.

And neither the new Board of Regents nor its successor the Board of Administration were slow to exercise their powers. They soon forced the resignation of the heads of all of the higher institutions of learning and penal institutions of the state with the exception of the State Agricultural College and the State University. The head of the Agricultural College was Professor, now United States Senator, E. F. Ladd and, as he was an ardent Non-partisan, his removal was unnecessary. As far as the State University was concerned a removal was attempted and would have been successful but for a general protest on the part of the alumni and a threatened walk-out on the part of the students.¹ Dr. Thomas F.

¹ The following letter of protest is but one of many which were written to their parents by the students of the University:

"If you want to have a state university for the younger children to go to when they get out of high school, I advise you to work to get Totten and Muir off the board of administration.

"They call President Kane 'mentally unsound and morally unfit' to be President of the University. You have heard him speak. I leave it to you to judge if he is mentally unsound and you know Totten and Muir and I will leave it to you to judge if a man who backed Stangeland in the public library deal, can judge who is 'morally unfit.'

"They have a reason to be down on President Kane. Didn't he refuse to ratify the appointment of N. C. MacDonald for head of the extension division! Didn't he remove extension lecturer George Wilson from the payroll because he was a doddering half-baked socialist? Hadn't he bucked against Gillette and Libby and Willis, Townley's best friends here on the faculty? He has tried to keep the

Kane, the president of the institution, was himself a Non-partisan appointee and had no doubt satisfactorily answered a question which was presented to all candidates, as to his attitude toward the League. An attempt, however, was later made to control his appointments and he incurred the hostility of the leaders by removing a socialist from the head of the Extension Department of the University and refusing to appoint in his place the former superintendent of public instruction N. C. MacDonald after the defeat of the latter by Miss Minnie E. Nielson. The League was especially anxious for this appointment as it had become firmly convinced that the Extension Department of the University could be made an effective avenue for the spread of the propaganda either of Americanism or socialism and unrest, and this just as its head might dictate. They desired the propaganda of the University to be of the latter nature. They realized that the influence of the Extension Department could be made second alone to that of the free traveling libraries. The latter they already controlled. The desire for the control of the former was the reason for the attack on President Kane.

school out of politics. These few things alone are enough to cause him to be hanged, drawn and quartered by that bunch of character assassins. They ask him to resign and he has without a doubt done more for this school in a year and a half than any other President we ever had could do in five years.

"The charges Totten and Muir present come from the faculty—anonymous. What kind of a bunch is it that will make anonymous charges, afraid to show their faces. I know a few like them—Willis, Gillette, etc. When President Kane goes goodness knows who will come, maybe Townley himself would make a good president. If they do get Kane out, you can back on this—you'll have a school here that will be run without opposition from Totten and Muir and in that you will have a school that no self-respecting person would send his child to. You can tell people that discuss the matter with you that ninety-nine out of a hundred of the students here are with President Kane."

CHAPTER XIII

THE SCHOOL FUNDS

ONE of the things the conservatives and all real friends of American democracy most fear, in connection with political experiments, is that the magnificent school land grants of the Western states may be dissipated. If these lands and the funds derived from them can be saved as a guarantee of the permanence of popular education and of the Americanism of the West, and as a heritage not only to the children of the citizens of the present but to those of the generations yet unborn, many will be content. They will be satisfied to allow experiments to be tried, and if they fail, for the dancer to pay the fiddler in the shape of an increased present taxation and a present industrial ruin.

The danger to these grants and to these funds lies in the temptation to invest recklessly in the securities of state and municipally owned industries, many of which must necessarily fail; to divert the moneys from their proper funds in order that they may be loaned to such enterprises and swell the general balance of the state which will be constantly drawn upon, and perhaps, and in order that these funds may be replenished, to sell the lands themselves at lower figures than would otherwise have been obtained.

Whether these funds have been seriously tampered with so far in North Dakota it is now impossible to say, as the State Bank of North Dakota in which they

are deposited, has steadily refused to allow its books to be examined by the State Auditor. The danger, however, is very apparent. It can, however, we believe, be met and overcome by a rigid insistence, by those who are authorized to insist, upon the simple law of contracts and of trusts.

The congressional act of February twenty-second, 1889, which authorized the creation of the States of North Dakota, South Dakota, Montana, and Washington, among other things provided:

"Sec. 10. That upon the admission of each of said States (North Dakota, South Dakota, Montana, and Washington) into the Union sections numbered sixteen and thirty-six in every township of said proposed States . . . are hereby granted to the said States for the support of common schools . . ."

"Sec. 11. That all lands herein granted for educational purposes shall be disposed of only at public sale, and at a price not less than ten dollars per acre, the proceeds to constitute a permanent school fund, the interest of which only shall be expended in the support of said schools . . ."

"Sec. 14. That the lands granted to the Territories of Dakota and Montana by the act of February eighteenth, eighteen hundred and eighty-one, entitled 'An act to grant lands to Dakota, Montana, Arizona, Idaho, and Wyoming for university purposes,' are hereby vested in the States of South Dakota, North Dakota, and Montana respectively, if such states are admitted into the Union as provided in this act, to the extent of the full quantity of seventy-two sections to each of said states . . . shall be so amended as to provide that none of said lands shall be sold for less than \$10 per acre, and the proceeds shall constitute a permanent fund to be safely invested

and held by said states severally, and the income thereof to be used exclusively for university purposes and such quantity of the lands authorized by the fourth section of the Act of July 17, 1854, to be reserved for university purposes in the Territory of Washington, as together with the lands confirmed to the vendees of the territory by the act of March 14, 1864, will make the full quantity of seventy-two entire sections are hereby granted in like manner to the State of Washington for the purposes of a university in said state. None of the lands granted in this section shall be sold at less than \$10 per acre . . .

"Sec. 16. That 90,000 acres of land, to be selected and located as provided in section 10, of this act are hereby granted to each of said states, except to the State of South Dakota, to which 120,000 acres are granted for the use and support of agricultural colleges in said states, as provided in the acts of congress making donations for such purposes.

"Sec. 17. That in lieu of the grants of land for the purposes of internal improvements made to new states by the eighth section of the act of September 4, 1841, . . . the following grants of land are hereby made, to wit:

"To the State of South Dakota: For the school of mines, 40,000 acres; for the reform school, 40,000 acres; for the deaf and dumb asylum, 40,000 acres; for the agricultural college, 40,000 acres; for the university, 40,000 acres; for state normal schools, 80,000 acres; for public buildings at the capital of said state 50,000 acres, and for such other educational and charitable purposes as the legislature of said state may determine, 170,000 acres; in all, 500,000 acres.

"To the State of North Dakota a like quantity of land as in this section granted to the State of South Dakota,

and to be for like purposes, and in like proportion as far as practicable.

"To the State of Montana: For the establishment and maintenance of a school of mines 1,000,000 acres; for state normal schools 100,000 acres; for agricultural colleges in addition to the grant hereinbefore made for that purpose 50,000 acres; for the establishment of a state reform school 50,000 acres; for public buildings at the capital of the state in addition to the grant hereinbefore made for that purpose 150,000 acres.

"To the State of Washington: For the establishment and maintenance of a scientific school 100,000 acres; for state normal schools 100,000 acres; for public buildings at the state capital in addition to the grant hereinbefore made for that purpose, 1,000,000 acres; for state charitable, educational, penal and reformatory institutions 200,000 acres."

And similar grants under similar limitations have been made by other and more recent acts.

An example of the acceptance by the several states is furnished by the constitution which was adopted by the state of North Dakota as a prerequisite to its admission into the Union, and which among other things provides:

"Sec. 153, Art. 9. All proceeds of the public lands that have heretofore been, or may hereafter be granted by the United States for the support of the common schools in this state; all such per centum as may be granted by the United States on the sale of public lands . . . shall be and remain a perpetual fund for the maintenance of the common schools of the state. It shall be deemed a trust fund, the principal of which shall forever remain inviolate and may be increased but never diminished. The state shall make good all losses thereof."

"Sec. 159. All land, money or other property donated,

granted or received from the United States or any other source for a university, school of mines, reform school, agricultural college, deaf and dumb asylum, normal school or other educational or charitable institution or purpose, and the proceeds of all such lands and other property so received from any source, shall be and remain perpetual funds, the interest and income of which together with the rents of all such land as may remain unsold shall be inviolably appropriated and applied to the specific objects of the original grants or gifts. The principal of every such fund may be increased, but shall never be diminished, and the interest and income only shall be used. Every such fund shall be deemed a trust fund held by the state, and the state shall make good all losses thereof."

"Sec. 162. The moneys of the permanent school fund and other educational funds shall be invested only in bonds of school corporations within the state, bonds of the United States, bonds of the State of North Dakota or in first mortgages on farm lands in the state, not exceeding in amount one-third of the actual value of any subdivision on which the same may be loaned, such value to be determined by the board of appraisers of school lands."

"Sec. 165. The Legislative Assembly shall pass suitable laws for the safe keeping, transfer and disbursement of the state school funds; and shall require all officers charged with the same or the safe keeping thereof to give ample bonds for all moneys and funds received by them, and if any of said officers shall convert to his own use in any manner or form, or shall loan, with or without interest, or shall deposit in his own name, or otherwise than in the name of the state of North Dakota or shall deposit in any banks or with any person or persons, or

exchange for other funds or property any portion of the school funds aforesaid or purposely allow any portion of the same to remain in his own hands uninvested except in the manner prescribed by law, every such act shall constitute an embezzlement of so much of the aforesaid school funds as shall be thus taken or loaned, or deposited, or exchanged, or withheld, and shall be a felony; and any failure to pay over, produce or account for, the state school funds or any part of the same entrusted to any such officer, as by law required or demanded, shall be held and be taken to be *prima facie* evidence of such embezzlement."

Under the congressional acts and the state constitutional provisions quoted above, not only were valid contracts entered into but the several states were created trustees of the lands involved as well as of the proceeds of such as they should thereafter sell. There can also, we believe, be no question that a state may be a trustee and that the statement that "the crown or a state cannot be a trustee means no more than that the *cestui* cannot compel performance of the trust by bill in equity . . . The *cestui's* proper course is to sue by petition—in England, to the Crown; in this country, to Congress or the Legislature."

Though a state may not be sued by its own subjects or by its own agencies, it is also clear that an American state may be sued by its sovereign, the United States; that if it assumes the relationship of a trustee it assumes the liabilities of the trust, and that it and its officers can be held responsible in the federal courts.

The United States, then, has created the states of the West trustees of what may be termed charitable trusts, for though the property conveyed and the object of the grants is certain, the beneficiaries are not only the chil-

dren of the present generation but the children of the generations yet unborn, and the public schools, universities, and other schools were not only not in existence and were undefined at the time of the grant, but in a number of the states, noticeably North Dakota, have never at any time had any corporate entity and their trustees or regents have acted merely as agents of the state.

In spite of these facts, however, and in spite of the clear expression of the terms and the conditions of the trust, both in the act of Congress and in the provisions of the constitution under which the grant was accepted and the State admitted into the Union, there can be no question that in the State of North Dakota there is today a determined effort and purpose to violate this trust relationship, and that this effort, if successful there, will be repeated in other land-grant states. It is an effort not entirely to repudiate the trust, but to use the funds for purposes which are not authorized and to further the cause of state socialism by loaning and investing the funds in a manner which can never be sanctioned and which would not be tolerated in the case of a personal trustee even under the so-called liberal Massachusetts rule of investment.

This purpose of the Non-partisan League has not as yet been fully carried out and has in a measure been checked, at first by the determined efforts of a few hold-over senators in the legislature of 1917 and later by a few conservatives in the ranks of the reformers. Already, however, the former state debt limit of two million dollars has been swept away and the state is authorized to issue bonds to the extent of seventeen millions of dollars upon the security of "the real and personal property of state-owned utilities, enterprises or industries, in amounts not exceeding its value," and the intention is quite

clear that the school funds shall be used in the purchase of these bonds. Already, too, authority has been given for the entry of the state into all kinds of commercial enterprises and insurance projects, and above all, a state-owned bank has been created in which all state moneys are required to be deposited, including the school funds while awaiting permanent investment, which may loan its deposits to practically whomsoever it pleases, and which a recent lawsuit disclosed had deposits in the Scandinavian-American Bank of Fargo, a private state bank, a large portion of whose assets were post-dated farmers' checks.

These measures, however, were mere compromises. The real program was outlined in what is known as House Bill 44 of the Legislative Session of 1917, which submitted an entirely new state constitution. This bill was vigorously championed by the Governor, passed the lower house by a large vote, and was defeated in the Senate only by the vote of eight hold-over senators.

This proposed constitution authorized both the state and the municipalities to engage in any public industrial enterprises that they pleased, entirely removed the state debt limit as to state bonds which were issued on the strength of these industries, and, what is still more significant, amended Section 162 of the original constitution so as no longer to authorize the investment of the school funds in United States bonds, but in state bonds and on real estate security only. It also repealed or omitted Section 165 of the original constitution which guaranteed the proper investment of and made a diversion of the funds a criminal offense. It thus paved the way for the practice of depositing large sums of the money in the state bank or its branches to be by it loaned as it saw fit and, as far as the trust fund was concerned, secured only

by the responsibility of the state bank. The amendments, in short, made it possible for the whole of the school funds to be loaned or kept by the state for the furtherance not of its political and governmental, but its private industrial purposes.

It is quite apparent that this program involves a serious breach of the trust relationship. The original congressional grant provided that the proceeds of the sale of the school lands should be kept as a permanent fund and should be safely invested, and it is quite clear that such directions to an ordinary trustee would in no case be understood to grant the power to loan to himself. It is true that the constitution which was adopted by the new state and which was accepted by the federal Congress provided that such money could be invested "in bonds of school corporations, within the state, bonds of the United States, bonds of the State of North Dakota, or in first mortgages on farm lands," and that the acceptance of this constitution was an acceptance of the method of investment. There was in the same constitution, however, a state debt limit of two million dollars, and it is apparent that the bonds contemplated were the bonds which are usually issued by states, in the performance of their educational, charitable, and governmental functions, and that it was never contemplated that the state, any more than other trustee, should invest the whole fund in its own securities or loan the whole amount to itself, and especially after it had raised the debt limit and entered into general business and loaned its credit to all kinds of industrial enterprises. Much less was it contemplated that the real security should not be the obligation of the state, but the property of industrial institutions, nine out of ten of which must fail for the simple reason that politics and business are poor bedfellows and that the success of every

industrial undertaking depends upon business management. When, too, United States government bonds and real estate mortgages and school bonds were all included, they were included for a purpose. It was never intended that the state should use the money to set itself up in business or to loan all the money to itself.

It was never intended that the state should create a state bank, in which all the state moneys should be required to be deposited, including the school funds while waiting permanent investment, and that these funds should be placed in such a position that they could be loaned out on short loans to needy state industries, nor that a practice, recently held illegal by the Attorney General but now sought to be legalized by statute, of turning all the taxes and funds into a general fund for general expenses, and the keeping of the accounts separate as a matter of bookkeeping merely, should jeopardize any of the funds, or prevent the educational or other institutions from having them always kept subject to their drafts.

"Trustees cannot use trust moneys in their business, nor embark it in any trade or speculation; nor can they disguise the employment of the money in their business, under the pretense of a loan to one of themselves, nor to a partnership of which they are members." A trustee, even though he be a sovereign state, cannot loan to himself or personally profit by the funds that he holds.

It is perfectly clear that if any of these things are attempted the United States may interfere in the premises and that it will not be compelled to wait until the fund is wasted or dissipated and then sue an already bankrupt state for damages. Certainly the state could be enjoined from dissipating the property. Certainly even a sovereign state which violates its trust may be removed as a trustee or, if the matter be merely considered con-

tractural, the contract may be held broken and a return of the lands and moneys may be demanded.

In such a case the proper person to act must necessarily be the Attorney-General of the United States, and this not merely because the United States has made a contract with the several states which it is entitled to enforce, but because it is a case where the settlor or creator of the trust has a definite interest and perhaps alone can protect the parties interested.

The *cestuis que trust* or beneficiaries even if they were ascertained and the trust were not charitable, could hardly of themselves obtain adequate relief. Being subjects, they could not sue the trustee in its own courts and would be equally precluded by the eleventh amendment from suing in the federal tribunals. No provision seems to be made for one who seeks to sue not as a citizen of any one state but as a citizen of the United States itself.

If an action were brought by the attorney general as a representative of the *cestuis que trust* the same difficulty would be experienced.

However, there can be no question, that the settlor itself may enforce the contract and the trust obligations. The trust was not for the benefit of the state alone or for that of its children as state-citizens, but for the benefit of the United States itself and of its own future citizens.

The foundation for the public land grants was laid in the provision of the Northwest Ordinance that "Religion, morality, and knowledge being necessary to good government, and the happiness of mankind, schools and the means of education shall forever be encouraged," and though North Dakota is not a part of that territory and its reformers have omitted the words which have been quoted from their proposed constitution, it is none the

less clear that the policy of that ordinance was the cause of the state's enrichment. The West was opened for settlement and the school land grants made, not for the benefit of the states, which for the most part were then not in existence, but that in the organization of the territories and the carving them into states, the nation might be strengthened and its future be secured. The children to be educated were the children of the nation itself.

It is also well settled that: "If, the charity is established and is in process of administration, there is any abuse of the trust or misemployment of the funds, and there are no individuals having the right to come into court and maintain a bill, the attorney-general, representing the sovereign power and the general public, may bring the subject before the court, by bill or information and obtain perfect redress for all abuses," and it is clear that the attorney-general in the case before us is the Attorney-General of the United States and the court the Supreme Court of the nation.

If the socialistic fervor of the western states is to continue, a close scrutiny of the use and method of investment of the school funds would seem to be very necessary, and no political or other reasons should prevent the national government from asserting its rights and preserving intact to the children of the future the magnificent heritage that is theirs.

If the fact had been generally recognized that these grants were trusts for a definite purpose and not gifts to the several states for their own peculiar benefit, much of the reckless mismanagement and prodigal waste of the past would have been prevented, and states like Wisconsin would to-day possess and enjoy the immense tracts of valuable land which were sold, often at prices as low

as one dollar and fifty cents an acre, that real estate dealers might profit and the political speculator might thrive. Perhaps even now sovereign states may be held liable for their mismanagement as trustees.¹

¹It is estimated that the value of the school land grant of North Dakota exceeds the amount of \$45,000,000.

CHAPTER XIV

THE SEIZURE OF THE COAL MINES

No better illustration of the North Dakota theory of direct action and of government by force, rather than by law, can be given than that afforded by the coal strike of 1919.

In it we find a deliberate attempt by the socialist leaders to sacrifice the farmer himself, and an absolute surrender to the vote of the mines.

Three distinct elements in the Non-partisan party of North Dakota, and three distinct motives have been in evidence from the beginning. There was the rank and file of the farmers who were interested in the movement only as an agrarian movement, in the doctrine of "North Dakota for the farmers of North Dakota," and in controlling the grain and stock markets.

There was the group of socialist leaders who desired to push forward the socialist program, to socialize as many industries and occupations as possible, and who saw in the war, with the autocratic measures of government which the war made necessary, a present opportunity to do so.

There were the politicians who desired to build up a national party, and who realized that in order to make that party popular in the non-agricultural and mining and manufacturing states and centers, it was necessary to palliate the labor element, and ostensibly, at any rate, to adopt a program in North Dakota that could be adapted to

these states, and which would win the support of organized labor.

Some months before and during the war, the so-called State Council of Defense had attempted to seize the vacant, though privately-owned lands, and to farm them by direct state action. The attempt, however, was half-hearted, for the reason that there were no appropriations with which to buy the seed and machinery necessary for the farming project. Though the Council of Defense threatened to charge these items against the owners of the land, the seed men and the machinery dealers refused to extend credit. The national coal strike of November, 1919, however, presented an opportunity which the League was not slow to utilize.

The same problem was presented in both Kansas and North Dakota. The method of solution, however, was entirely different. The one was legal, and the other illegal. The situation in Kansas was forced upon the state by the action of the miners and the mine operators; that of North Dakota was deliberately created.

Kansas had an abundance of coal within her own borders, but in the dead of winter was threatened with an absolute cessation of production, and a controversy between some 13,000 coal miners and a hundred or more coal operators was threatening untold misery to hundreds of thousands of people.

In North Dakota there were some six hundred and fifty thousand people, some two thousand miners, one or two large mines and perhaps ninety smaller concerns, and though the population was smaller it was perhaps, even more than in the State of Kansas, dependent upon the local supply of coal.

In Kansas there was an actual controversy between the miners and the operators at the time that the state au-

thorities sought to interfere. In North Dakota there was no controversy except that stimulated and created by the League's governor in order that the state might interfere, and in order that the first movement towards the socialist program of the seizure of the mines might be inaugurated.

In Kansas, a controversy having arisen, and the fuel supply of the state being actually threatened, something had to be done. This something, however, was done legally by the ordinary processes of the courts and with a full opportunity for all parties to be heard, and was supplemented by legislative action. Bills were filed in the courts by the Attorney-General setting forth the facts of the situation, the needs of the public, and the facts that the mines were, to a certain extent, affected by public interests. Receivers were appointed with the power to operate the mines and regulate the hours of labor, the wages, and other matters in controversy until such time as the parties might agree or the legislature might take action. All this was done in a legal manner, and all was subject to court review. When the legislature met, it legalized collective bargaining, it made it unlawful to suspend or to interfere with the production or transportation of the necessities of life, and in case of necessity, gave to the state itself the power to operate the mines, and justified the action taken, which we believe had been legally taken before the passage of the statute. Later, by legislative action, in a bill which was supported by both the labor and the farmer elements, an industrial court was created.

In North Dakota, on the other hand, no court proceedings were had, no bills were filed, no opportunities to appear in court were accorded, but a peremptory order was made by the Governor to accede to demands which

had not been made or urged by the local miners themselves but by a delegate from the district union in Montana after a conference with the Governor. The increase in wages, which was ordered, was not even to be paid to the miners, but into the general national strike fund, and was to be used for the promotion of the national strike. Because of a refusal to comply with these orders, the state militia was peremptorily ordered to seize the mines, to operate them under the orders of the Governor, and to distribute the proceeds as the Governor should direct. On complaint being made that the increase of wages demanded could not be made without raising the price of coal, the suggestion was made that the price could be raised to the consumer to the extent of \$1.75 a ton and that the added cost of production could thus be met.

All of this was done in spite of the fact that there were thousands of farmers willing to work in the mines, that they were the consumers of the coal and would have to pay the added cost, that the increase in wages was not to be paid to the miners but into the national strike fund, that the miners in the principal mines were working at war prices and under a contract which was satisfactory to all and which did not expire until the September following, and that prior to the conference of the delegates from Montana with the Governor of the state, no dissatisfaction seems to have existed.

In Kansas, there was an exigency, a controversy and a legal solution. In North Dakota there was no controversy and no exigency but an exercise of autocratic military power, and not for the benefit of the farmer or the consumer or of the local laborers themselves, but in order that friends might be made of the labor leaders in other states and of the National Miners' Union.

Seldom if ever before in America has there been wit-

nessed such an autocratic exercise of power or such a misuse of the military arm of the state, and the careful student cannot but agree with District Judge William Nuesle, who had the courage to assert the dignity of the civil law and to issue an injunction, and who in an opinion said:

“Under our system of government, all the powers of government are inherent in the people, and are by the people by and through the constitution granted, or delegated to certain departments. These department are co-ordinate and each charged with certain governmental functions. The reason for that, of course, is known to all of us, and arose by reason of grievances which the people suffered on account of misgovernment during the centuries preceding the formation of the American commonwealth, and to forestall the possibility of usurpation by any individual, or set of individuals exercising the powers of government, the framers of the federal constitution and the framers of the constitution of this state and the various states, sought to distribute the various functions and powers of government among three departments in order that each might operate as a check against the other, to the end that the power of government might be balanced and the rights and liberties of the people safeguarded thereunder.

“These different departments are coördinate. Neither should interfere with the exercises or overstep the boundaries of the powers of the other. If they do, there is bound to be a serious conflict, so that the strength of our form of government has itself one source of weakness in it. And for that reason I hesitated a long time before I issued an order to show cause in this particular case because it involves direct attack upon another branch of our government. It is invoking the power of the judiciary to review the exercise of power by the executive, and if

this court should make an order attempting in any way to interfere with the exercise of power by the executive department, the court could only enforce that order by the appointment of special executive agents to carry it out.

"Ordinarily it is a function of the executive to carry out the mandates and see that the decrees of the judicial department are complied with, and if the executive department should resist the enforcement of the orders of the judiciary, and the judicial department should seek to carry out this order the only result would be civil war. This is carrying the thing out to a logical conclusion. There is not escape from it.

"On the other hand, should the executive department be permitted to go unchecked and exercise not only the functions that constitutionally belong to that department, but to overstep into the legislative department and say what the laws shall be, and into the judicial department and say how the laws shall be interpreted—if *this is the case you have despotism*. It seems to me the predicament this court is now in is a serious one, looking at the matter from either angle of the proposition.

"As stated by Justice Davis in *re Milligan*, it is not the province of the court to interfere when the executive is acting within the law, but it is the duty of the court to declare the nullity of any illegal action on the part of the executive. So, embarrassing as it may be, I must hold in this particular case, in view of all the circumstances, that a temporary injunction must be granted, and that the defendants and each of them be restrained from further interference with the property of the plaintiff, and that the defendants and each of them be commanded to turn back to the plaintiff the property that has been taken by the defendants. I hesitate to do this, but it seems to me I cannot do otherwise viewing the law as I view it.

It is a most embarrassing situation, fraught with embarrassment not only to the court but to the people of the state of North Dakota.

"As I look upon this matter of martial law, it is not so material that this court shall pass upon the propriety of the executive declaring martial law. As I read the authorities, and I have no quarrel with most of the authorities cited by Mr. Richardson, yet as I view the authorities, where martial law is declared there is no interference with the civil courts and there is no suspension of civil rights and liberties, unless the courts themselves have been so incapacitated by reason of the circumstances existing and calling forth a declaration of martial law, that they are unable to function. The reason for martial law is necessity; to rehabilitate the courts; not to destroy them or usurp their powers.

"This court, under the authorities, takes judicial notice of the situation as it exists with reference to the emergency which has existed on account of the shortage of fuel. It is certainly a most deplorable situation that in the State of North Dakota with the great quantities of fuel we have so close to the surface, that there probably will be suffering on account of the present coal strike.

"This is a deplorable situation, but in the view of this court, it does not warrant the exercise by the executive in the absence of a state of war or insurrection, tumult, riot, breach of the peace, or threatened breach of the peace in taking over private property for the purpose only of operating these properties commercially, even though the purpose be to avoid such threatened suffering and hardship. In my judgment there are other remedies not inconsistent with the powers given the executive under the constitution.

"I believe in the case of great businesses such as rail-

roads, coal mines, public heating and lighting plants, water systems, or any of the great quasi-public enterprises, that the public is a third party to a three-cornered compact and that its rights are greater than that of either labor or capital operating the business in question, and I do believe there is inherent in the governmental powers given to the judiciary by our constitution, both state and federal, a power which may be invoked to right any situation such as we may have, and to right it in a manner consistent with the constitution and consistent with the powers given by the constitution to the other departments of the government.

“And I do think that if the executive of this state can in his own judgment form a conclusion as to what is necessary, not to quell insurrection or breach of the peace, but to prevent suffering in the future at some time more or less remote; if he can by reason of that judgment not only call out the troops for the purpose of preserving peace, but can order these troops to seize private property, and compel men to work and operate that private property, even though to prevent the occurrence of the suffering we have spoken about, and there is no way for judicial review, that it is a most astonishing condition abhorrent to every citizen and repugnant to every constitutional principle.

“Carrying this thing to a logical conclusion, if the governor of this state, there being none of the things which would warrant him in declaring martial law, if the governor of this state can seize private property, there being no riot, tumult, breach of peace, or any of these things; if he can seize private property from the owners without any provision for compensation, and let them take their chances as to compensation, near or distant; if he can seize that property and operate it either by agreement,

as happens in this case where the miners will work for the state and will not work for the private operators; if he seizes the mines he may need mules and horses to operate them, he can go to the adjacent farmers and commandeer these mules and horses and say the state requires them; if he needs hay and oats to feed these mules and horses he can go to the next farmer and seize that property; he can seize the railroads and operate the railroads to distribute the coal that is mined, throughout the state to prevent the very suffering which he aims to prevent.

"He can compel men to labor in these mines and produce that coal under pain of imprisonment. It seems to me that it means on the one hand confiscation, and on the other hand involuntary servitude, and that the courts under the constitution must have the power, even though they cannot enforce the mandate they may issue consistent with that power, to pass upon and review such action.

"It seems to me, if this is not the case, the governor can, when he deems an emergency arises, set aside all constitutional restraint, not only to preserve the peace, but to do that which he thinks he should do in order to effect such purpose as he thinks should be effected regardless of how that purpose may be viewed by the courts or by the people.

"I appreciate that any mandate that this court may issue, unless the governor sees fit to recognize that mandate, cannot be enforced without civil war if the thing is carried to its logical conclusion. I do not want that.

"I shall make an order requiring that this property be turned back, and that further interference be not had by these defendants, such order to be complied with at a future time, far enough in the future so that an appeal

can be taken to the supreme court. I want this thing settled, and every citizen of the state wants its settled. If the view taken is wrong, and Mr. Richardson's view is right, we should know it at the very earliest moment. It does not seem to me that the Governor will resist the Supreme Court if the Supreme Court holds as I have in this matter."

Fortunately for all parties concerned the settlement of the national coal strike soon ended the controversy, and though the military were for a time in possession, but little harm was done to any of the parties concerned.¹

In the Legislative Session of 1921, however, a bill was actually introduced for the state purchase and operation of a coal mine, the idea having been suggested by Governor Frazier in his inaugural address.²

¹The action of Governor Frazier was later affirmed by Charles F. Amidon of the United States District Court at Fargo, North Dakota. This decision, which for all time must remain a curio in our legal history, was later overruled by the United States Circuit Court of Appeals and the way was thus opened for suits for damages against those who had interfered with the conduct of the mines.

The author is pleased to be able to add that although the Non-partisans followed their usual custom and sought to defeat Judge Nuessle for reelection the people of his district asserted their American citizenship and returned him by a large majority.

²This bill, however, was defeated in the lower house.

CHAPTER XV

THE NON-PARTISANS AND THE I. W. W.

IT is hard to believe that the farmers of the Northwest, many of whom are large landed proprietors whose property interests sometimes reach into the hundreds of thousands of dollars, will ever consent to unite permanently with the socialists and with the members of the Independent Workers of the World. From the time that the desire of forming a national party and of extending the operations of the League beyond the limits of North Dakota entered into the minds of its leaders, however, there can be no doubt that secret alliances have been made with these enemies of organized society, that their support has been urgently requested and that every effort has been made to obtain their favor.¹

For many years the members of the I. W. W. have been extremely active in both North and South Dakota. They have terrorized railroad crews; they had committed sabotage on the farms and they have even carried their activities so far as to organize and accomplish a jail delivery from the North Dakota penitentiary. In order to check their activities several more or less drastic measures of repression were passed by the South Dakota legislature. The North Dakota assembly, at the Legislative Session of 1917, introduced similar bills, all of which at first met with approval, even in the Non-

¹ At all times the Non-partisan League has refused to pass anti-red-flag laws. It was, however, severely reprimanded at the polls by their passage on a referendum vote.

partisan secret caucus. These bills, however, were opposed at the last moment by William Lemke, who is perhaps one of the League's most adroit leaders, on the ground that they would tend to antagonize labor and that the labor vote, though perhaps not necessary in North Dakota, would be necessary in the other states in which the League at the time was seeking or might thereafter seek to gain a foothold. The bills were therefore never reported to the legislative body by the Non-partisan caucus and therefore, as was the case with all other bills not so reported, were defeated.²

In 1918 or the early part of 1919, when the dream of a national party first seems to have been seriously entertained, a scheme was launched for forming so-called Frazier Clubs in Minnesota, the purpose of which was to put forward Governor Frazier of North Dakota as "The People's Choice for President in 1920," and a pamphlet was printed, if not circulated, whose cover displayed a picture of a farmer clasping hands with a labor-

² Of this incident and of the activities of Arthur Le Sueur who was a member of the Non-partisan League, the I. W. W. and of the Socialist party, the socialist paper, the *New York Call* under date of March 2, 1917, said:

"The story of the North Dakota Non-partisan League was graphically told at the Civic Club last night by Arthur Le Sueur, the League's legal adviser.

"The organization in North Dakota now numbers 100,000 voters, and Mr. Le Sueur is on his way to Washington to convey to President Wilson a memorial from the League urging the President to keep the nation out of the European war, and protesting against the policy of proscription.

"While the Non-partisan League in North Dakota is composed exclusively of farmers, Le Sueur declared that the labor unions of the state have stood as one man with the League, and further, that its program is composed of precisely the points included in the Socialist party platform for the last six years. . . .

"Le Sueur said: 'The Senate (N. D.) passed an anti-I. W. W. law, and the House 'threw it out of the window' instead of passing such a law as the Senate desired. The House enacted a measure appropriating several hundred thousand dollars to be used by the commissioner of labor for the assistance of transient workers who come to the state at harvest time.'"

ing man and also a picture of Governor Frazier. Though advocating the election of Governor Frazier this circular said nothing specifically concerning the farmer or the landed proprietor. It contained the inflammatory statement:

"Present conditions demand immediate results. A few more years and only a bloody revolution will accomplish what our ballots can do now."

And this statement Governor Frazier himself repeated in 1919 in a Labor Day address at Bismarck, when among other things he said:

"A peaceful change through the ballot to remedy a present national ill, but if this is not possible, then a revolution must come. . . . I am willing to try out most any kind of new method that has any chance to serve humanity."

It was later reaffirmed by him at a "Reconstruction" conference at the University of North Dakota in October, 1919, when he said:

"Mr. Smith is right. Labor must go into politics. Unless it gets its rights by the ballot it will get them some other way. I have been criticised for making this statement but I intend to keep right on making it."

Arthur LeSueur, who was a member of both the League and the Socialist party and a member and the principal attorney of the I. W. W., in conjunction with David Coates, who was also a member of the three organizations and is credited with having organized the latter, had sought in 1917 to obtain a collective bargaining agreement between the League and the laborers' organization. This plan failed only because the wages demanded by the members of the I. W. W. appeared to be too high. If carried out it would have created an alliance between the two organizations and would have made North Dakota

an I. W. W. closed shop. This is evidenced by the following letters which were introduced in evidence in a trial of thirty-two members of the labor organization in the Kansas United States District Court. One of these was written on May 23, 1917, by C. W. Anderson, secretary of the American Workers' Union Lodge No. 400 of Minneapolis, and stated among other things:

"The big drive will soon be on and you are going to see the biggest line-up in the history of the labor movement the coming summer. The Non-partisan League of North Dakota wants to have an understanding with the A. W. U. No. 400 for the hiring of farm help only through the Union here. If this comes to a successful head at the Kansas City meeting the 30th of this month, which I think it will, then it means that *nobody can work in the grain belt unless they are Union men with cards up to date*. You will probably know that this means the line-up of 75,000 workers here."

Another letter was written by the same C. W. Anderson to Fred Gouder of Great Falls, Montana, under date of June 4, 1917, and among other things said:

"The proposition of the Non-partisan League farmers of North Dakota was approved at the convention. A committee has been appointed to meet the farmers' organization on conditions. This means *all the harvesters will be hired through the Minneapolis office of the A. W. U.* It will mean a line-up of 50,000 this year."

In the official minutes of the convention of the A. W. U. No. 400 we also find the following:

"Moved and seconded that we give the floor to Arthur LeSueur to explain what the grounds are on which we can meet and come to an understanding with the Non-partisan League . . . Arthur LeSueur made the following statement . . . 'that if we can come to some

understanding with the Non-partisan League of North Dakota, it will mean the *balance of power will be shifted from the state government to the Industrial Workers of the World and the Non-partisan League!*"

Of this plan Forrest Edwards, the secretary of the Minneapolis branch of the I. W. W., in a letter the original of which is now on file in the rooms of the Minnesota State Historical Society, said:

"Indications are that the 'guy' who does not carry an I. W. W. card in North Dakota this year will be out of luck. Should the proposition offered by the farmers' organization be accepted by our organization a rather humorous situation will exist in North Dakota.

"When a farmer comes to town after a man, the wobbly will ask him for his card in the farmers' organization. If he has none, the wobbly will tell him there is nothing doing. The members of the farmers' organization, on the other hand, will hire only I. W. W. men. The unorganized farmer and the unorganized worker will be out of luck."

North Dakota is essentially an agricultural state and its crops are largely small grains which are harvested during a short season and threshed from the shock. As there is no permanent or local labor supply in the state, the farmers are especially dependent upon imported labor. It is amazing, however, that any exigencies of labor supply should have suggested a coalition such as that contemplated, under which all other labor would have been excluded. The suggestion could have come only from a desire of the League's socialist hierarchy to bring about an era of sovietism and to obtain the votes and support of the radical laboring classes no matter what the consequences might be to orderly government.

CHAPTER XVI

THE NON-PARTISAN LEAGUE AND THE LABOR UNIONS

THROUGHOUT its history the League's socialist hierarchy has attempted to gain the support of the labor organizations, and so far it has met with a large measure of success. Not the least of the triumphs of the League was the securing of a promise of the Illinois Federation of Labor to withdraw its funds from the "capitalistic" banks of its own state and to deposit them in the state-owned bank of North Dakota, though if this were ever done, and as yet there is no official audit which can disclose the fact, it is quite clear that the present financial difficulties of that institution have occasioned their withdrawal. Be this as it may, however, it is clear that thus far the League and these organizations of laboring-men have been in close coöperation and that the only ground for friction between them has been the eight-hour day which the farmers have never been willing to concede to their own laborers and have therefore hesitated in endorsing in the case of industrial employees.

The declaration of principles of the Working People's Non-partisan Political League of Minnesota is as follows:

"1. That every human being is entitled to an opportunity to earn a living, and should be fully protected in the just control of the fruits of his labor.

"2. That the natural opportunities, together with the machinery and skill of the country, are capable of supplying abundantly all the wants of the people if all who

are willing and capable to work are given the freedom to do so; and that poverty and want among the many, and superabundance among the few, are due to maladjustments in our industrial system.

"3. That the opportunity for self-employment has passed, in a large measure, beyond the control of the mass of the people as the means and instruments of wealth production have become too expensive for the individual worker to own and too complex to operate.

"4. That a comparatively few individuals and corporations have secured effective control of industry and thereby arbitrarily determine the share of wealth that the mass of the people shall receive; and these monopolists retain for themselves the fabulous amount that remains.

"5. That in spite of wage increases, the workers have been actually receiving an ever diminishing share of the wealth produced; as speculators and monopolists have been able to inflate prices and reabsorb every increase labor has been able to obtain.

"6. That the process of steadily raising the price level is a new and an effective means of despoiling the producers, and lowering the standard of living.

"7. That the industrial autocrats have extended their evil influence into the realm of government, and have corrupted and dominated our political institutions, and have employed the press and other agencies of information and education to misguide the people and bolster up monopoly's rule of robbery and oppression.

"8. That the competition among the workers for employment; the struggle of the workers against the employers for a living wage; and the strife among the capitalists for markets and customers make harmony, unity and progress impossible and must lead inevitably to strife and

conflict which tend to diminish and destroy the achievements of civilization.

"We therefore advocate the following legislative and political measures as tending to accomplish the changes necessary to establish equality of opportunity, and to abolish autocracy in industry and corruption in politics :

POLITICAL AND LEGISLATIVE PROGRAM

"1. The unqualified right of workers to organize and to deal collectively with employers through such representatives of their unions as they choose, to be recognized and enforced by appropriate legislative enactments.

"2. A maximum eight-hour day, of 44 hours a week, with one full day's rest in seven, in all branches of industry, with minimum rates of pay which, without the labor of mothers and children, will maintain the worker and his family in health and comfort, and provide a competence for old age, with ample provision for recreation and good citizenship.

"3. A workman's compensation plan, administered by the state, that will bring to injured workmen, their families and dependents, sure, certain and full relief regardless of question or fault and to the exclusion of every other remedy without recourse to the courts.

"4. Abolition of unemployment by the creation of opportunity for steady work at standard wages by the stabilization of industry through the establishment and operation, during periods of depression, of government work on housing, road building, reforestation, reclamation of cut-over and swamp lands and development of water-power plants.

"5. Public ownership and operation of railways, steamships, banking business, stockyards, packing plants, grain elevators, terminal markets, telegraphs, telephones and

all other public utilities and the nationalization and development of basic natural resources, waterpower and unused land, with the repatriation of large holdings to the end that soldiers and sailors and dislocated workers may find an opportunity for an independent livelihood.

"6. Reduction of the cost of living to a just level immediately by government restriction and supervision and as a permanent policy, by fostering the development of coöperation, which will eliminate wasteful methods, parasitical middlemen and all profiteering in the creation and distribution of the products of industry and agriculture, in order that the actual producers may enjoy the fruits of their toil.

"7. Revenue for the payment of public debts and for the expense of government shall be obtained mainly from taxes on incomes and inheritances and from a system of land-value taxation, which will stimulate rather than retard production.

"8. Continuation of soldiers' and sailors' insurance; extension of such life insurance, by the government without profit, to all men and women; and the establishment of governmental insurance against industrial and other accidents, illness, unemployment and old age, and upon all insurable forms of property, establishment of a definite fund to provide adequately for pensions for indigent mothers.

"9. Complete equality of men and women in government and in industry, with the fullest enfranchisement of women, and equal pay for men and women doing similar work.

"10. That the autocratic domination of the forces of wealth production and distribution by selfish private interests, which has proved to be the prolific source of class antagonisms, and the prime cause of industrial paralysis

and consequent idleness and poverty among the masses, shall be gradually superseded by a process of governmental supervision, which shall ultimately put those who work by hand and brain in control of industry and commerce for the benefit of all the people.

"11. Coöperation with the national government in the establishment of a department of education coördinate with other branches of the federal government, in order that a uniform and effective educational system may be developed in which every child will be guaranteed a thorough cultural and industrial education and the academic freedom and economic independence of the teachers will be secured.

"12. As the freedom of speech, of the press and of assemblage are the surest safeguards against tyranny, revolution and reaction, and a guarantee of the orderly development of industry and the peaceful progress of society, we demand the immediate and complete restoration of these fundamental political rights, with adequate security against their abridgment or infringement by any person or persons whatsoever."

In the same pamphlet, we find the following reference to the Farmers' Non-partisan League:

WAGE EARNERS AND FARMERS

"The gravest danger that has confronted the plunderbund in big business in America has been the possibility of the farmers and city workers joining hands *on the political field*. Every effort has been made to keep these two most powerful producing elements in society as far apart as possible. Being pitted against each other has rendered them helpless and easy victims for the fully organized exploiters of both.

FARMERS PROVE THE LIE

"It remained for the farmers in North Dakota, through their elected farmer legislature, to forever destroy the false and unbased theory that these two greatest of the nation's industrial classes should not and can not work hand in hand for and with each other for the common good of all.

"The farmers' National Non-partisan League of North Dakota, in complete control of the Sixteenth Legislative Assembly, 1919, with power to make and unmake laws at will, proved itself to be a genuine and loyal friend to labor.

"This farmer legislature literally opened its arms to the labor forces of the state, inviting them to present such legislation as they desired. Ever on the alert for friendly overtures along this line, labor promptly availed itself of this unheard of opportunity. The success with which it met was far above the expectations of the most sanguine of the labor group.

"Upon the invitation of the farmers, the State Federation of Labor, representing the allied crafts, as well as other labor which was not organized, presented such bills as it had hopelessly endeavored to have passed for years at previous legislatures. And these farmers, without dodging, without inserting and injecting jokers to make the laws ineffective, and in sturdy good faith passed every bill requested by labor. Labor was then invited by these farmers to present any other laws they desired to have passed so long as they conformed to good government and were just in their demands.

"Labor has worked incessantly in almost every state to secure the enactment of compensation, mine inspection, anti-injunction, eight-hour and minimum wage for women,

full-train-crew and other righteous laws for labor, but with only limited and meager success.

"North Dakota now has all these laws and more, given them by the farmers. Labor in no other state can claim as much nor anything to compare with North Dakota. North Dakota is in complete control of farmers. Every other state is directly or indirectly under the control of representatives of corporate interests who tell labor that the farmer is his enemy."

Nor were these mere idle words. After having been defeated at the Minnesota primaries by Jacob Preus, the regular Republican candidate for governor, the Non-partisan candidate, Henrik Shipstead, was accorded the same place on the Workingmen's Non-partisan or Labor Ticket in the fall elections of 1920, and throughout in Minnesota, and especially in the cities of St. Paul, Minneapolis, and Duluth, the Non-partisan and the laborer have worked hand in hand.

In North Dakota the League leaders and the League's representatives in Congress enthusiastically endorsed the so-called Plumb bill in regard to railroad management and control, and in return the League was as enthusiastically supported by the railroad employees.

CHAPTER XVII

THE LEAGUE AND THE WORLD'S WAR

THE charge of disloyalty has frequently been made against the League, and no doubt had much to do with its defeat in the Minnesota elections of 1918. No doubt, also, the accusation was true as far as many of the leaders and speakers of the League were concerned. It was untrue of the majority of the League's candidates for political office and of the rank and file of the organization. That rank and file was composed of the landowners and farmers of the Northwest, and the farmer of the Northwest never has been and never will be a traitor.

There can be no doubt that many of these farmers were pro-German before the entry of the United States into the war. But being a pro-German before the United States became involved, at any rate before the sinking of the *Lusitania*, is an entirely different thing from being a pro-German afterwards. Doubtless there was sometimes an appearance of disloyalty, and in many instances a possibility, and to a certain extent, a probability of disloyalty. And it was that possibility and probability that the socialist disloyalists relied upon, and which was the cause of most of their seditious utterances.

Many of the farmers of the Northwest were German born. Many of them belonged to the Lutheran faith, and Prussia is a Lutheran state. Many of the pastors, and ministers, and teachers of the Scandinavians and Germans of the Northwest have been educated in the

German universities. Among some Catholics there was at first a leaning towards Germany and an antagonism towards France because of the disestablishment of the church by the French republic. It is also to be remembered that the Irishman is no great lover of Great Britain, and that our school histories have hardly been friendly to that nation or apt to make the American youth its willing and enthusiastically.

All these things the socialist orator and propagandist saw. He overestimated their importance and, like the Kaiser himself, he failed to understand America and the real and fundamental loyalty of all of our classes and all of our creeds. Because he overestimated their importance he sought to make political capital out of treason. That many of these speakers and leaders were disloyal is a matter which is above controversy. They were socialists and the socialist is seldom a patriot. He has a class conscience and not a national conscience. He has a class loyalty and not a national loyalty. This is especially true of the so-called international socialist. We may say all that we will about international brotherhood, "the parliament of man and the federation of the world," but the abstraction is too great for the ordinary mind and is generally fatal to what we term patriotism. The ordinary man needs something that is concrete and specific. He needs something that is tangible to be loyal to. He needs to have a love for particular and local rocks and rills and not for geological formations in general. He needs one tradition and one flag. When he makes that flag but one of a world constellation, he loses it in the common mass. Especially is this true when the man's loyalty is not even to the nations or to the people of the world, but to a certain class within those nations.

Perhaps, however, the largest factor in the seeming

disloyalty and the chief reason for the seditious utterances that were made (and these utterances consisted largely of the statement that the war was a rich man's war), was the fear of the leaders that, in the excitement and pressure of the war, local issues would be lost sight of. Throughout the world, indeed, the socialist, the union laborer, the prohibitionist and even the anti-child labor enthusiast seems to have been careful that in the great and pressing issues of the war, and in the fervor of patriotism, his little issues should not be forgotten, and to have feared that just as the Civil War turned the attention of the people from the prohibition issue and brought to nought the efforts of its advocates which seemed then to be nearing success, so would the propaganda of the socialists, the farmers and the laboring-man also be forgotten in the World War. If these were forgotten, where would be their causes, and above all what would become of the political fortunes of their leaders? After the entry of America into the war, the League as a whole was behind it, the farmers of the Northwest rallied to the Flag and their sons cheerfully joined the colors; in the lists of those who distinguished themselves upon the field of battle there are scores of names, from North Dakota, some even of German origin. In America's honor roll of glory the foreign born and the son of the foreign born are fully represented; yet, even when advocating patriotism, many of the leaders of the League seem to have thought it necessary to call attention to their industrial program, the demands of the farmer and the local economic issues. Governor Frazier would say, "Of course we are behind the flag, but the farmers should have \$2.50 for their wheat," and the statement was everywhere made that the capitalists were profiting unduly by the war and that there should be a conscription of wealth as well as of

men. It was repeatedly stated that though, since the nation was at war it was the duty of all to stand behind our armies, the war was none the less a capitalists' war and that it should never have been.

This may not have been disloyalty, but certainly it was not patriotism. Patriotism is a fervor; it is a faith; it is an inspiration. Patriotism knows no "buts." In the war addresses of Governor Frazier the "but" was everywhere in evidence. A fervid patriot would hardly have petitioned for the pardon of Kate O'Hare, who had been convicted of obstructing the draft by calling the mothers of the soldiers "mere brood sows," and would hardly have stated, as did Governor Frazier, that the prosecution was merely the result of political prejudice.

Although the farmer boys of North Dakota and the sons of the members of the Non-partisan League itself responded loyally to their country's call and although the North Dakota farmer did his part towards contributing to the various war subscriptions, yet it may well be asked if the leaders of the League were not among the country's most prominent political profiteers.

In September, 1917, Professor G. E. Call, of the Kansas State College of Agriculture estimated the American farmer's net profit on wheat at \$2.20 a bushel to be 41 cents. This estimate was based on an average of \$28 per acre for the wheat land of the country, an average crop of fourteen bushels an acre, and an average cost of 78.7 cents per bushel to the farmer, and a net profit of \$16.96 per acre throughout the country.

This estimate must appear reasonable to any candid observer, for it is to be remembered that the cost of labor and materials, even in 1917, was not nearly as high as it is to-day, and everyone knows that, except in those districts where the climatic conditions were unfavorable, the

really good farmers of North Dakota made large profits on the war prices. Everyone knows also that there are hundreds of thousands of farmers in the country who became prosperous and independent during the years when a dollar a bushel was a high and an unusual price.

In spite of these facts, however, M. Hagan, the Non-partisan commissioner of agriculture of the State of North Dakota, sought to prove that it cost a farmer over \$21 an acre to raise wheat and stated that "to sell wheat for \$2.20 which it cost the farmer \$3 to raise" was "a high price to pay for patriotism." He based his cost of \$3 a bushel on the assumption that the average yield of North Dakota was only seven bushels an acre, and he may have been correct in his estimate if he took the state as a whole. If he was correct, however, it was merely because North Dakota contained a large number of poor farmers, who not only did not fertilize or pulverize their soil, but sought to raise wheat on land that was entirely unadapted to it, as it is in the western and semi-arid portions of the state. No one indeed would claim that even fourteen bushels an acre is suggestive of good farming.

It was Mr. Townley, however, whose statements were the most deceptive and who was most energetic in insisting on the prerogatives of the farmer. At a meeting of the Non-partisan League which was held at St. Paul in September, 1917, he said:

"There is a great difference between our patriotism, the patriotism of the men who toil that the profiteers may make four billions of dollars, and the patriotism of the men who make the billions. While the farmers and other producers have been raising crops to feed the armies of liberty, making ships and munitions and implements of war, a lot of gentlemen have been spending their ample

leisure in announcing their patriotism. When you work sixteen hours a day for liberty and democracy you haven't much time or will to wave the flag.

"So they say the farmers are not patriotic. But four billions of profits robbed from the workers will pay for a lot of patriotic announcing. But now you have taken a day off to announce your patriotism. Yet you can not do as much announcing as they do, those men who leave the production of all things to us. Those men whose hands are white and soft, and whose skins are round and smooth, have more time to wave the flag than we have.

"If we were to put in as much time waving it as they do the whole world would starve to death. The profiteers and their kept press are very lavish of patriotism, but too much of it comes from money stolen from us. Their arms are red with the blood that proves they are not patriots. And if they are not patriots what in h— are they? Who has a German helmet? Place it upon their heads, and you will see the Kaiser himself. Patriotism is based upon justice, not upon robbery.

"I want to say to you and to the newspaper men here that if the papers will tell the truth about this damnable thing as you and I see it, the profiteers will have to go out of business, because they can't stand the breath of truth. No criminal can. When the life of liberty and democracy, when the life of this nation hangs but by a thread, these are the men who talk to us of patriotism and call themselves patriots. And then when a farmer's boy complains because his wheat is marked down twenty cents a bushel because it contains five pounds of barley they brand him as a pro-German. My answer is that with the aid of the boys who are marching to the battle-front we may yet defeat the representatives of autocracy in our midst as well as abroad.

"We say to the profiteers: 'Government price-fixing is all right. Come on in, the water is fine. We do not ask to fix the price of what you sell us according to the price we fix on what we sell you. We ask you to sell us according to the price you have fixed on what we sell to you.' I believe there is enough patriotism in the country to see a square deal of this kind. I do not believe that America has been Prussianized yet.

"It is our duty to support the government in its efforts to fix prices, and if it were not for the patriotism of iron and steel and coal and flour we would have a square deal to-day. Let the government make those gentlemen produce without profit, as it is making us do, and they will quickly say to the government: 'Here, take these things. We can't use them.' And then we shall have government ownership. Their patriotism is of the kind that it takes war-profits to make work. After these fine gentlemen have been trimmed they will have some real patriotism, and the country will be ahead that much.

"It will grade about No. 4, at that, but it will not be 'feed wheat' or 'rejected,' like the kind they have now. When you take the profit out of war no one will be interested in keeping this war for liberty and democracy going any longer than is necessary to save them. If it is right to conscript your son's life, that most precious life, it is right to conscript the coal and steel that God made."

On still another occasion A. C. Townley said:

"The flower of the young manhood of this nation is going across the water to bleed, as we are told, for the honor of the country, but it needs some effort for me to believe that these young men are going to fight for the freedom of democracy. . . .

"I refuse to urge you farmers to raise a larger crop until you or they wipe out this monstrous wrong and I

will say that unless they are big enough to control the transportation of food and coal for the Northwest I cannot see a possibility of the United States being successful in this war."

In a book entitled, *Why Is Your Country at War, and What Happens to You After the War, and Related Subjects*, Charles A. Lindbergh, the League's candidate for governor of Minnesota in 1918, made the following statements:

"We have been dragged into the war by the intrigue of speculators."

"I believe the problem could have been settled without war or the sacrifice of national honor."

"Wealth saw to it that the conditions would be created that would make it practically impossible for us to keep out of war."

"Wealth was so greedy that it had to build greater fortunes, even if it took the sacrifice of millions of lives and entailed suffering on more than nine-tenths of the world's population."

"It was the demand of wealth that we should prepare a great navy and a great army in order to enforce the existing political and economic system not only upon ourselves but upon the world—present and future."

"No one can reasonably justify our entry into the war solely because some of our citizens were unlawfully murdered."

"Without consulting the people . . . congress and the president did declare war."

"Our democracy is indeed weak when we resort to conscription."

"Then came the Red Cross campaign for funds. . . . What they want is to control the organization of the Red

Cross, because it will be officered by able persons, and to control that organization will be worth billions of dollars."

"It has indeed been humiliating to the American people to see how the wealth-grabbers, owners of the 'big' press, actually attempt by scurrilous editorials and specially prepared articles to drive the people as if we were a lot of cattle, to buy bonds, subscribe to the Red Cross, to register for conscription, and all the other things."

In 1917, Joseph Gilbert, a former manager of the National Non-partisan League, was sentenced to serve a year in jail, and to pay a fine of \$500 for a speech made at Kenyon, Minnesota, criticising the Government for conscripting soldiers for the war; and this conviction was afterwards sustained by the Supreme Court of the United States. At about the same time, A. C. Townley was also convicted of violating the Minnesota espionage act, but the case is still on appeal, and has not yet been decided. J. O. Bentall,¹ who was also a League

¹In an issue of *The International Socialist Review*, which was published in September, 1917, we read:

"Sugarman and Bentall—Just as the *Review* goes to press word comes to this office that State Secretary of the S. P. of Minnesota, A. L. Sugarman and J. O. Bentall have been arrested on a charge of attempting to 'obstruct the war.' Comrade Bentall writes us from the county jail in Minneapolis. 'There are about fifty of us on this floor and the boys are all eager to know about Socialism. Some are party members and 'slackers.' We have had some great meetings in Minnesota, all from 3,000 to 10,000 people. At Hutchinson at least 10,000 came—some 20 or 30 miles—full of enthusiasm and eagerness. I never saw anything like it. In the middle of my speech the postmaster rushed up on the platform and struck me in the face. He was promptly reduced to quiet by some big farmers, and I talked another hour and a half. People are falling over each other to hear about Socialism these days. They are no longer afraid of it, and the farmers are most radical and fearless. They no longer imagine that this is a free country and they rebel like mad bulls. They can't believe that capitalists, through a few hireling politicians, can rob us of 'our liberties.' All they need is education. Eight thousand attended the meeting at Dale, including two sheriffs, three judges and several U. S. deputy marshals and a number of plain clothes men. We sold all our literature and needed more.

leader, and the socialist candidate for governor of Minnesota, was also convicted of disloyalty, and sent to Fort Leavenworth for five years.

There can also be no doubt that, in the state of Minnesota, many Germans and others of foreign birth were led by some of the organizers of the League to believe that if they would only join the ranks of the new party their sons would be saved from conscription, and it is quite certain that it was not until the League² was goaded to it by adverse criticism that it came out with a positive declaration of loyalty and that even that declaration had beneath it and within it a protest, and lacked the ring of true patriotism. The declaration was as follows:

"We pledge anew our devotion to our country in this supreme hour of trial. We reaffirm our faith in the principles of democracy and pledge our lives, our fortunes and our sacred honor to the struggle to free the world from autocracy and establish democracy, political and industrial, among the peoples of the earth.

"We declare it to be our solemn conviction that the

Later I went back to the old farm, hitched up the tractor to two eight foot binders and had just gone one round on our oats when a U. S. deputy marshal came along and arrested me. So I shut down the gas horse and here I am. There is just one thing I want to say, I never talk against war; all I do is to talk peace. They say that it was the little Hutchinson postmaster who reported me as undesirable. His word went. Good cheer to you all in the grand work for the revolution. Everything is coming our way."

² At a meeting of the League which was held at St. Paul in September, 1917, Governor Frazier said:

"They are loyal and patriotic, and will defend the Stars and Stripes to the last ditch. All they want is a square deal, and the purpose of this conference is to put that square deal up to the Food Administration. The farmers have had poor crops for two years, and the price of \$2.20 for wheat, while a good price in other times, is too low for this year. If the price of wheat is to be fixed, then we ask the Government to go down the line and fix the prices on all the necessities of life. I believe the Government is going to do this. I believe there is patriotism enough in the country and among the wealthier classes and the Eastern people to see that the poorer classes get a square deal."

German military autocracy, revealed in all its horror by the ruthless rape of Russia, is a menace to the world. We pledge our unqualified support to our government in the war to free the world from this menace.

"We indorse wholeheartedly the statement of war aims by the president of the United States. We believe that he has stated clearly and unequivocally the real intent in the hearts of the American people and that this statement forms a sure basis for a lasting and democratic peace.

"We extend greetings and pledge our support to the forces in every country which are struggling for democracy, and especially to the people of Russia, in this hour when the new democracy of the East is beset by foes within and without.

"While giving our utmost energies to the prosecution of the world war for democracy, we are not unmindful that there are enemies of democracy in the homeland. These are the powers of special privilege which take advantage of the opportunity which war affords to more firmly entrench themselves in their control of government and of industry. These interests are amassing enormous fortunes out of the world's misery. They are reaching for our remaining public resources. They are striving to destroy the organization of farmers and workers. They are handicapping the progress of the war by their profiteering and thus prolonging the war and sacrificing the lives of thousands of America's finest sons."

A noticeable feature of the whole movement, and a feature which conclusively shows its socialist leadership, is the fact that a charge or even a conviction for disloyalty, or the disbarment of a lawyer from practicing in the courts appears never at any time to have been considered in any sense a disqualification for public office,

and that candidates with these records were enthusiastically supported.

It is no doubt true that many men are unjustly accused of crime; that many men during the excitement of the recent war were unjustly accused of disloyalty, and that some perhaps were unjustly convicted. It is no doubt true that some lawyers who have been disbarred and some ministers who have been unfrocked have later repented and become worthy of the fullest confidence. Never before, however, in the history of America, have records such as theirs been elements of political strength and passports to political appointments.

CHAPTER XVIII

TERRORISTIC POLICIES OF THE NEW AUTOCRACY

THE policy of the leaders of the League has been throughout to brook no opposition. Much of their legislation has been terroristic; that of the special session of 1920 was entirely so.

They found that their Attorney-General, William Langer, their State Auditor, Carl Kositzky, and their Secretary of State, Thomas Hall, were not subservient to all their desires, so by statute they removed them from various taxing, equalization, and other boards to which they had formerly belonged.¹

They cut down the appropriations for the office of the Attorney-General² and of the State Auditor so that it would be impossible for these officials to perform the duties of their offices and so that it would be extremely difficult for the State Auditor to audit properly the books

¹ Formerly the auditing board was composed of the governor, the state auditor, the attorney general, the state treasurer, and the secretary of state. Now and by chapter 21 of the Laws of the Special Session of 1919 the secretary of state and the state auditor were dropped from the board and the commissioner of insurance and the state examiner were substituted in their places.

² Formerly the attorney-general was authorized by statute to appoint his own assistants. Now and by the act of the Special Session of 1919 their number was reduced to two. Chapter 20 of the Session Laws also provides that "the Governor may, when he deems it necessary, appoint Special Assistant Attorneys-General. Such appointment shall be in writing and when made shall confer upon such assistants such powers as are exercised by regular Assistant Attorneys-General, when such powers are not expressly limited by the terms of such appointment. Such appointment shall be revocable at the pleasure of the Governor."

and the accounts of the state departments and of the state institutions.³

They found that two of the members of the Tax Commission were not in accord with their policies, so they transformed a three member commission into a one member commission. They found that they could not defeat the State Superintendent of Public Instruction at the polls, so by statute they deprived her of practically all of the powers of her office. They found that the people of the capital city of Bismarck were generally opposed to them, so they vigorously promoted a campaign which should remove the state capital to another place, and vigorously denounced and defeated at the polls the judges of the Supreme Court, who properly and on valid constitutional grounds held the election invalid. They passed a statute which made criticism of the League's industrial program a felony⁴ and created an investigating committee with

³ His action had a comic as well as a serious aftermath.

At the close of the Special Legislative Session of 1919 the State Auditor kept long lines of legislators waiting for days for their warrants for per diem and other expenses, under the pretext that his office was under manned, that it was impossible for him to immediately audit all of the bills that were presented, and that he chose to audit first those of the state's general creditors and of his own personal friends. Later on he created a small panic by adopting the same course in regard to the monthly salary warrants of the state officers and employees. When urged to work what few employees he had overtime, he quoted the eight-hour labor law which the Non-partisans had themselves adopted. There was direct excuse for his action for at one time there was in his office and requiring attention, 1,300 expense accounts and 20,000 hail department warrants, nearly 1,000 salary accounts and many other miscellaneous accounts, to say nothing of those which had to be examined outside of the capitol building.

⁴ Chapter 36 on the Special Session Laws of the Session of 1919 is defined to be "An Act making it a felony for any state official to publish willfully false statements with reference to any state department, institution or industry and presenting the manner in which such cases under the provisions of this act shall be tried and providing the penalty therefor."

Its provisions are as follows:

"No state official shall wilfully publish any false statement in regard to any of the state departments, institutions or industries which said false statements shall tend to deceive the public and create a distrust of

inquisitorial powers.⁵ At one time they found that the Senate would not approve the Governor's nominations of their candidates for members of the State Board of

the state officials or employees in charge of such departments, institutions or industries, or which tends to obstruct, hinder and delay the various departments, institutions and industries of the state.

"The district court in any county in the state where any such false statements shall have been uttered or otherwise published, shall have jurisdiction to try any case brought under the provisions of this Act.

"In all prosecutions under the provisions of this Act and tried by a jury such jurors shall be selected from various parts of the county in which such case shall be tried.

"Any person violating the provisions of this Act shall be deemed guilty of a felony and shall be punished by imprisonment in the state penitentiary for a term of one year or by a fine of Five Hundred Dollars (\$500.00), or both."

⁶Chapter 41 of the Laws of the Special Session of 1919 gives to us what is termed "a joint resolution creating a joint investigation committee; defining its rights and powers, and authorizing it to investigate all efforts to destroy or injure the property or rights of individuals, corporations, or any of the industries, enterprises or utilities owned by the State, or the credit of the State, or to unlawfully influence or corrupt elections or results thereof and to report the results of such examinations to the Governor, to the Legislative Assembly and State's Attorneys; and making an appropriation therefor; and providing for bonds."

Sections one and two are as follows:

"A joint committee of the Legislative Assembly of the State of North Dakota, consisting of five members, two of whom shall be Members of the Senate, to be named by the presiding officer of the Senate, and three of whom shall be Representatives of the House, to be named by the Speaker of the House, is hereby created and shall be known as the committee for investigating conspiracies and conduct against law and order and government in North Dakota.

"It shall be the duty of this committee, and it is hereby directed and authorized, to examine and investigate, on the written complaint of any person, or on its own initiative, as a committee, any department or public office of this state, and all acts, efforts, attempts, transactions, proceedings and conspiracies to destroy or injure, or which were or are designed or intended to injure or destroy, the property, reputation, freedom, rights or business of any person, corporation, association, company or group of persons in the State of North Dakota, or any of the industries, enterprises or utilities owned by the State of North Dakota, or the credit of the State of North Dakota, or to influence, corrupt or control any election or primary, or the result of any election or primary, by force, violence, riot, libel, blacklist, blackmail, threat, coercion, fraud, misrepresentation, deceit, or by the use or abuse of legal process or official power or by any unlawful or oppressive means or method whatever, and report the results of such examination and investigation to the Governor of the State of North

Regents, so they induced their Governor to make the appointments without the consent of the Senate, and their judges affirmed the appointments. They sought to restrain the press by providing that legal and public notices should be printed only in a limited number of papers, and gave to a central board the power to select the newspapers. They were thus able to drive a number of independent newspapers out of existence.

They created a state sheriff so that the administration of the criminal laws of the state should be in their own hands, especially such laws as related to seditious utterances.⁶ They took from the courts the power of disbarment and required the attorneys of the state to pay an annual license fee of fifteen dollars, and to be subject to the control of a central board. They sought to remove the president of the State University because he failed to agree with them in all of their propaganda, and were only deterred from so doing by a walk-out on the part of the students. They passed a general absentee voters' law which could be used even by those who were within the state and by women who lived more than half a mile from the polls, which did much to destroy the secrecy of the Australian ballot and which made it once more possible for the political boss to deliver votes.

And not only has there been a legislative terrorism but

Dakota for such executive action as he may in his discretion take, and to the Senate and House of Representatives of the next regular assembly of the State of North Dakota, and to the respective State's Attorneys for criminal prosecution."

⁶This law created the office of State Sheriff, to be filled by appointment by the Governor, and to hold his office at the pleasure of the Governor. This state sheriff was given a sort of supervisory power over the sheriffs in all of the counties of the state, and given power to remove any and all county sheriffs at his pleasure. Under this law the sheriffs of all of the counties of the state elected by the people in their respective counties, no matter how diligent and faithful they were in the performance of their official duties, could be removed from office at any time by the snap of Mr. Townley's finger.

a social and business terrorism also. Not only has the state patronage been given to the friends of the organization, and all of the legal and state printing given to the favored Non-partisan newspapers, not only have the funds of the Bank of North Dakota been loaned to favored banks and for the support and use of the friends and of the enterprises of the League, but the business boycott has been freely used and openly threatened. Bankers, newspaper men, and storekeepers have been forced into submission by the threat that rival state or coöperative enterprises would be organized and that loans by the Bank of North Dakota would be refused. During the campaign of 1920 A. C. Townley candidly told the business men of several small towns that the returns at the fall elections would be carefully scrutinized and that a hostile vote in the town or village would be punished by the organization of rival stores and a thoroughly organized agitation to induce the farmers to buy all of their goods from the mail order houses of the eastern cities.⁷

⁷ In the *Bismarck Tribune*, bearing date October 26, 1920, we find the following despatch:

"Fargo, Oct. 25.—A. C. Townley told an audience of Non-partisan League farmers and residents at Finley on Wednesday afternoon that he would come back to Finley if he had 'to crawl' to wreak vengeance on business men if they by their vote or by their influence defeated him in the November election.

"Erick Ellingson, a Sherbrooke, Steele county, township farmer, who attended the meeting, was in Fargo to-day and he quoted Mr. Townley as follows:

'If I find that you poison gas bags, I. V. A. (Independent Voters' League) in Finley, have done anything by your vote or your influence to defeat me, Frazier, Lemke, Hagan and the rest of the ticket, I will see to it that the Non-partisan farmers around Finley will not spend a dollar with you, so help me God. . . . You don't have to get your goods here, you can send away to Sears and Roebuck for them, they don't fight the Non-partisan League. . . . I will come back to Finley if I have to crawl, and start the biggest consumers store that was ever started.'

"The threat by Townley to 'get' the business men of Finley is similar to that made by him at Stanley, Minot, Michigan, Grand Forks, Langdon, Valley City and many other places."

At all times the League has held the threat of opposition at the polls over the head of the elective judiciary. They have executed the threat whenever it appeared to them to be necessary.

Throughout the hierarchy has desired speedy action and has had the zealot's belief that all who were not with it were not only against it but against democratic progress, and it has brooked no opposition. It has asserted to its utmost the theory of a government by the temporary majority rather than by the law and has failed to concede the right of free thought or discussion and the value of a thoughtful democracy. It is true no doubt that in the earlier days of the state many of these things were done by the so-called McKenzie autocracy. They have been sometimes attempted even in the more recent years. Like the revolution in Russia, however, the new democracy has become more autocratic than the Big Business and the so-called aristocracy which it has sought to supplant.

This elicited the following letter which was written by and sent to every member by Fred P. Mann, the president, and W. A. Donnelly, the secretary, of the North Dakota Retail Merchant's Association:

"Mr. A. C. Townley has repeatedly stated in the past few days that if he is defeated in the election on November 2, 1920, he will return to North Dakota and put every merchant out of business by organizing a great boycott of the farmers against all the business men of the State of North Dakota.

"What do you think of it, men, when you, a free American citizen of the United States of America, are told how you can vote, and for what political party you can work by A. C. Townley? If there is an ounce of true American blood in your veins you will do everything in your power to defeat A. C. Townley, the dictator and false leader of the farmers' movement in North Dakota, and rid the state of socialism and mismanagement, putting the Non-partisan League back into the hands of the farmers, where it will be properly managed, and a great benefit to all of the people of the state.

"I am sure that every merchant in the state of North Dakota is a true friend of the farmer, our interests have always been one. We have worked together for the upbuilding and development of the great State of North Dakota, and I am sure that A. C. Townley or any other man cannot divide us into two opposing factions."

CHAPTER XIX

THE LEAGUE AND THE COURTS

FROM the beginning the League's leaders have realized that there is still in the hearts of the people a certain reverence for a government under the constitutions and under the laws. They have, however, openly dared to put into practice and to assert the doctrine that the judge is after all a mere representative and that the temporary majority has a right to demand that he shall interpret the constitutions and the laws as it, the temporary majority, desires. The desire of Mr. Townley was for direct action. He wished to push through his program by force rather than by argument. He did not desire to give the people time to think. He therefore left to a radical lawyer, William Lemke, the selection of the candidates for the bench, and Lemke interviewed the aspirants, and chose and recommended to the conventions those whom he was satisfied favored his ideas and would yield to the economic and constitutional theories of the League. One of them, Mr. James E. Robinson, who was elected to a seat on the Supreme Bench by perhaps the largest vote ever cast in the state for a judicial candidate, openly went before the convention and promised if elected to support its measures. During the judicial campaigns the League's orators and publications repeatedly stated that it was absolutely necessary that the constitutionality of their measures should be sustained and that therefore it was more necessary that the judges endorsed by the League should be

elected than even the governor himself. These things have perhaps been done secretly in the past, and it is no doubt true that the so-called vested interests have often taken a prominent part in the selection of what they have termed safe and sane judges who, they believed, would favor their social, constitutional and economic views. This however was done secretly. Never before has the theory that a judge is a representative and not a judge been openly advanced, and never before has a sovereign people been told that it was more necessary to elect a certain judge than even the governor himself. Never before has a judge gone before a business or a political convention and pledged himself in advance. And above all, and this is the most serious aspect of the whole case, never has a sovereign people been so blind to the real functions of the judiciary, the real meaning of a government by law and not by men, by right and not by might, or by the force of a temporary majority, that they have elected a man because he has so promised.

Never before in the history of America has a protesting judge found it necessary to write such a dissenting opinion as was written by the author of this book when in the case of *State ex. rel Twitchell v. Hall* ¹ he said:

“Bruce, Ch. J.: (dissenting)

“This is an application for a writ of injunction to re-

¹This case involved the right to amend the state constitution by the initiative process. In the prior case of *State Ex. Rel. v. Hall*, which is commonly known as the New Rockford case, in which an attempt was made to remove the state capital from Bismarck to New Rockford, the court had held that though an amendment had been adopted looking towards the future amendment of the constitution by the initiative, that constitutional provision was not self-executing but merely conferred upon the legislature the power to formulate a scheme for such purpose, and that legislative action was necessary before the initiative could be used. This opinion and decision Mr. Justice Robinson had promised to overrule, and it is the public acknowledgement of this promise that furnishes the occasion for Chief Justice Bruce's dissenting opinion.

strain the Secretary of State from submitting to a vote of the people various proposed constitutional amendments which have been sought to be instituted by a popular initiative and by popular petitions. The applicant invokes the original jurisdiction of this court and an order to show cause has been issued.

"The respondent moves to dismiss the proceedings upon the ground 'that this court has no jurisdiction to grant the relief prayed for herein or over the subject matter of the action of the parties herein, upon the alleged cause of action as stated in the petition.'

"He also, and in case his original challenge to the jurisdiction of this court is denied, demurs to the petition on the grounds:

'1. That the plaintiff herein does not state facts sufficient to constitute a cause of action or grounds for relief herein.

'2. That the court has no jurisdiction over the subject matter of this action or over the person of the defendant as such upon the allegations of the petition herein.

'3. That the said plaintiff has no legal capacity to institute or maintain this action.

"All of these matters were thoroughly discussed in the exhaustive opinions which were filed by this court in the case of *State ex rel. v. Hall*, 35 North Dakota 34, 159 N. W. 281, and were unanimously decided against the contention of the respondent. It is, indeed, difficult to understand why in the light of this decision the Secretary of State should ever have contemplated the action which is threatened by him.

"It is true that the petitions which have been filed with him contain the signatures of many thousands of voters. It is no doubt true, as has been publicly stated by my associate Mr. Justice Robinson, that he, the said Justice, made

a preelection promise to overrule the decision in the case of *State ex. rel. v. Hall*, supra, and that he would not have been elected if he had not done so, and it may be true, as asserted by Mr. Justice Robinson, that the Secretary of State was conversant with this fact. I have yet to learn, however, that the making of any such preelection promises was ever contemplated by the framers of our government or that a show of force in the shape of a numerously signed petition should serve as a proper justification for a violation of my oath of office and a reason why I should hold that to be the law which I do not believe to be the law. It may also be true that the Secretary of State has already gone to a great expense in printing the proposed constitutional amendments, but it is not shown that the petitioner was a party thereto, or before he brought his present action had any knowledge that such Secretary would take upon himself the interpretation of the law and consider a seriously considered opinion of the Supreme Court of his state a mere scrap of paper. If, indeed, wanton and unnecessary expense has been incurred it has been by the Secretary of State and not by the voters of this state or by the petitioner, all of whom were justified in believing that the reign of law was still among us. I am fully satisfied with the correctness of the decision of this court in the case of *State ex rel. v. Hall*, supra, and of that of the Supreme Court of Indiana in the case of *Ellingham v. Dye*, 178 Ind. 326, and believe that we have long since passed the time when it is expedient or wise for the courts to administer the law on the basis of their own individual opinions and to change the established law with every temporary wave of popular opinion.

"There was, it is true, a time when the 'conscience' of a court of equity was presumed to be the personal conscience of the judge and when there were no established

rules and there was no such thing as *res judicata* or *stare decisis*. This time has long since passed. Its death knell was perhaps rung when Selden in his *Table Talk* and in referring to the law as so administered said:

'Equity is a roguish thing. For law we have a measure, and know what we trust to. Equity is according to the conscience of him that is chancellor; and as that is larger or narrower, so is equity. 'Tis all one as if they should make his foot the standard for the measure we call chancellor's foot. What an uncertain measure would this be! One chancellor has a long foot, another a short foot, a third an indifferent foot. 'Tis the same thing in the chancellor's conscience.'

"I may, perhaps be justified in using as my own the language of the great English chancellor, Lord Eldon, when in 1818 and in the case of *Gee v. Pritchard*, 2 Swanst. 402, he said:

'Nothing would inflict on me greater pain in quitting this place than the recollection that I have done anything to justify the reproach that the equity of this court varies like the chancellor's foot.'

"For the reasons above advanced I am of the opinion that the writ should issue and that the prayer of the petitioner should be granted. I do not believe that the constitutional provision is self-executing. I express no opinion upon the question whether the amendment itself was legally adopted, as I do not consider that the decision of this point is necessary at this time."

It is seldom that political leaders or a political convention has been willing to select, or, by an overwhelming vote, a sovereign people have been willing to elect a supreme court judge who in another important case would be willing to write as follows:

"Robinson, J. (dissenting). The purpose of this suit

is to compel the county treasurer of Ransom county to annually transmit to the state treasurer from the county tuition fund a sum equal to ten cents for each child of school age. The county treasurer appeals from an order and judgment sustaining a demurrer to the complaint.

"The action is based on chapter 251, Laws of 1913. It is an action to create a teacher's pension fund, and to pension such teachers as may serve for a certain number of years and contribute to the fund a certain percentage of their salary. As there are few who are so stupid as to make of teaching a life business, the chances are that one hundred persons must contribute to the fund for every person who wins a prize or pension. Hence, the action does in effect provide for a kind of lottery. One great objection to the lottery scheme was that the expense of administration amounted to 48 per cent. The same objection applies to the handling of the teachers' pension fund. The scheme is petty, wasteful and expensive. It has nothing to commend it. The teacher is fairly well paid, and his business is not in any way laborious or hazardous. It affords more leisure than any industrial business. In each week the teacher has only thirty working hours, which are reduced by holiday vacations.

"The action in question seems in direct conflict with these provisions of the Constitution:

'The legislative assembly shall have no power to authorize lotteries or gift enterprises for any purpose.'

'No tax shall be levied except in pursuance of law, and every law imposing a tax shall state distinctly the object of the same, to which only it shall be applied.'

'Neither the state nor any county, city, township, town or school district or any other political subdivision shall loan or give its credit or make donations to or in aid of any individual.'

'Taxes shall be levied and collected for public purposes only.'

"Now calling it by any name, the giving of a prize, donation, or gift to a school-teacher is not giving it for public purposes. And such giving by the state, county, or any political subdivision is directly prohibited. Were it competent to give such prizes or pensions to the school-teaching class, it would be equally competent to give them to the clergy, the farming class, or to any other class of persons. The act in question does not purport to impose a tax on any person or municipality, but it directs that a part of the tax which has been imposed by law for educational purposes shall be diverted and applied to the giving of prizes or pensions.

"Now, under the Constitution, every law imposing a tax must state distinctly the object of the same, to which only it shall be applied.

"Hence, we need not argue that when a tax is levied for one purpose the legislature may not pass an act diverting it to any other purpose. The conclusion is that the act in question does contravene the Constitution, and it is void."

It is rarely in America that we find Supreme Court Justices writing to the press letters such as that which follows:

SATURDAY EVENING LETTER

By Justice J. E. Robinson

December 7, 1918.

" 'Tis the last rose of summer,
Left blooming alone;
All her lovely companions
Are faded and gone;

No flower of her kindred,
 No rosebud is nigh,
 To reflect back her blushes
 Or give for sigh.'

"Justice Christianson is the rose of the court, the last of the old line judges—the last of the Mohicans. Well may he sing:

'I feel like one who treads alone
 Some banquet hall deserted,
 Whose lights are sped, whose banner fled
 And all but he departed.'

"All his lovely companions are faded and gone and their places are filled by good Non-partisan judges. And, though comparisons be odious, I venture to predict that the Non-partisan court will in efficiency and fairness far surpass any former court of the state; that they will not be slaves to any erroneous or rotten decisions called precedents—and that in future no person will be deprived of life, liberty or property without due process of law.

"Our new member, Judge Bronson, is pure-bred—a good worker and a thinker with a large bump of justice and a clear perception of the difference between right and wrong. Our Justice Grace: He is of the right pedigree, a worker, and a jurist of a luminous mind. Our Judge Birdzell, he may be rated as a good half-breed; while the old-liners made him law professor at the U and tax commissioner, Bishop Lemke virtually made him judge. Christianson is our new chief justice. He is a jurist of capacity and a real gentleman. When left to his own good impulses he is sure to stand for the cause of right and justice. Yet we are all creatures of environment, and so

it is on many occasions our present chieftain has fallen into error by putting too much trust in his former companions.

"You will remember the famous horse killing suit, when the ex-chief justice steadfastly maintained that the live stock board had absolute power to order the killing of certain good work horses and that our court was powerless to prevent it. The judges stood three to two in favor of an absolute power to kill horses. It was the same as holding that the stock board might go on and kill all the horses in the state, and the courts were powerless to interfere. But on this matter we had several conferences and animated discussions and at the third conference a light seemed to shine around the intellect of Judge Christianson as it shown around Paul on his way to Damascus to persecute the Christians. He veered to the minority side, and the good horses were saved. We did not have to write a funeral dirge.

"Once upon a time a justice of the peace of Morton county assumed the role of a czar by making a decree for the destruction of property worth \$25,000. The owners brought suit to protect their rights and on an appeal from an order sustaining a demurrer to the complaint, the majority of the court held that the justice of the peace had jurisdiction. In several such suits the present and the past chief justice always stood as a pair. They said: It is true that in a civil action or in a criminal action a justice of the peace can have no jurisdiction when the amount in controversy is greater than \$200, but a suit to destroy property worth \$25,000 is neither a civil nor a criminal action—that it is a quasi-civil and criminal procedure—and hence there is no limit to the jurisdiction of a justice of the peace. Of course you will know that was perfectly preposterous. But as the rime says:

‘Not every man can be a poet,
More than a sheep can be a go-at.’

“Some three years ago in a case known as *Lee v. Dolan*, an execution for \$1,000 was issued on a worthless judgment. It was not returned within sixty days, as provided by statute. For that reason the sheriff was fined \$1,000 with ten per cent penalty for the use of the plaintiff, and on an appeal the judgment was sustained, with the cynical remark: ‘There can be no claim that any physical suffering is involved in the penalty.’ In a similar case, within a year, our court refused to follow that erroneous decision. We held, in effect, that the purpose of the law is not to aid one man in robbing another, even though it may not ‘involve physical suffering.’

“In 25 N. D. there is a decision written by ex-Justice Spalding in a suit to redeem a good quarter section from a foreclosure sale. The sale was for \$54 and costs. The court denied a redemption. In several such cases the present court has permitted a redemption holding that courts should not sustain a robbery, though made in accordance with the forms and technicalities of the law. A foreclosure proceeding should be conducted in good faith and fairness. ‘Good faith consists in an honest intention to abstain from taking any unconscious advantage of another, even through the forms or technicalities of law.’

“In early days it was held that when a person is charged with a crime, if it is named a contempt, the judge may deny him a trial by jury and in a summary matter convict him on mere affidavits and sentence him to the state’s prison for two years. This you may call a rotten, office-seeking decision; because under the plain words of the constitution, any person accused of crime is guaranteed

the right of trial by jury, and that right cannot be evaded by calling the crime a contempt.

But now under better influences it is hoped none of our judges will now feel inclined to continue piling error upon error by following the lead of decisions so manifestly erroneous or rotten.

With the advent of Justice Bronson and our new chief justice, our court has turned a new leaf. During this week every judge has reported for duty promptly at nine a. m. We have set out in good earnest to catch up and keep up with the work of the court and to administer justice without denial or delay.

JAMES E. ROBINSON."

This letter was written immediately after the resignation from the bench of the author of this book. After the hearing in the Live Stock Case, which is referred to, but before its final decision, Mr. Justice Robinson carried on an active correspondence with the owner of the horses without the knowledge of the other parties to the litigation, and wrote several letters to the press expressing his opinion of the case, and even published a tentative opinion. This was done in order to bring public ridicule upon those of his associates who differed with him, and to compel them to concur in his view of the controversy. This, indeed, has been the jurist's common practice. Law suits to him should be tried by the public, and not the court, and the judges should be representatives and not the expounders of an established law. To Justice Robinson it is perfectly fitting and proper for a judge to talk to the litigants and council pending a law suit or pending an appeal, and to even announce his decision in advance of the litigation.

In another public letter, and in advance of any lawsuit testing the validity of the so-called bone-dry law of

North Dakota, and by way of gratuitous advice to prospective litigants, Mr. Justice Robinson said:

"October 26, 1918.—What may we do to be saved? How may we get whiskey and quinine? The flu has invaded the state and death is everywhere stalking over the land. The hospitals are filled with the sick. Many deaths occur every day, and we are as defenseless as sheep without a shepherd. Our Supreme Court is no more. The flu has given it a complete knockout and we hope that it may knock some wisdom and knowledge into the heads of us all. Any one should know that whiskey and quinine—any good liquor, wine or brandy—is the best and safest of all stimulants; and that for grippe, the flu, and pneumonia it is the best of all remedies. It is an antidote for the poison. The timely use of a bottle would have saved the life of . . . and the lives of hundreds of other good people, dead or dying all over the state. But the remedy is not to be had for love or money. It was excluded from the state by reason of the fake and deceptive bone-dry act, put on the books in March, 1917. You should know how it was done. On March 2, 1917, at the very close of the legislative session, without the consent of the Senate, a few members of the House, by trick and artifice, secured the apparent passage of House Bill 39 with fake and false amendments not approved by the Senate. The Senate had passed an amendment permitting every person within each period of thirty days to import for his personal and family use four quarts of whiskey or five gallons of wine or seventy-two quarts of beer. And in lieu of that amendment a few members of the House, by trick and artifice, secured the apparent passage of H. B. 39, with a false and fake amendment making it a crime for any person to receive, import or possess intoxicating liquor for

any purpose whatsoever. Yet the fake was engrossed as a part of the bill which was approved and booked as a law of the state. And without knowing how the act was faked, it was recognized as a valid statute by the judges, the attorney-general, U. S. Judge Amidon and U. S. Attorney Hildreth. And it became the principal business of the attorney-general and his deputies to prosecute offenses against the fake bone-dry statute. We must not think that it was done knowingly. To discover the fraud it was necessary to search for it and to examine the voluminous Senate and House journals, and the printed bills. The journals are not printed until long after the session and are not to be found in the law offices. One is fortunate to find the journals and printed bills in the office of the secretary of state. The faking of a statute is so uncommon that lawyers and judges are not sufficiently on the lookout for that kind of work.

"On July 31, 1917, without knowing or suspecting that the bone-dry statute was a pure fake, I gave the press an article maintaining that it was void because of defects in its title and because on its passage it was not read at length, as required by the constitution; but these were objections on which it was possible for lawyers to differ, and they proved of no avail. Now it is different. Now the facts are known and it appears beyond all honest dispute that the bone-dry statute is a mere fake and a fraud. *It was never passed by the Senate*, and at the last extra session in the Senate, by a resolution without a dissenting vote, the supposed act was roundly denounced as a fake and a fraud. Journal 118.

"The constitution provides:

'Sec. 65. No bill shall become a law, except by a vote of all the members elected to each House.'

'Sec. 63. Every bill must be read three times, and the first and second reading must be at length.'

'Sec. 61. No bill shall embrace more than one subject which must be expressed in its title.'

'Sec. 58. No bill shall be altered and amended on its passage so as to change its original purpose.'

"The fake bill contravenes each provision. Its title is: A Bill to Regulate the Receipt and Possession of Intoxicating Liquors. The fake amendment makes it a bill to prohibit the receipt or possession of liquor for any purpose whatsoever.

"As I have shown, the U. S. bone-dry statute of March 3, 1917, is a rider tacked onto the last section of the postal appropriation act, and its purpose was to put the federal law in harmony with the state law. It does not forbid any importation for medicinal purposes, nor any importation that is permitted by the laws of the state, and indeed, while Congress has a constitutional power to regulate interstate commerce, it has no legal power to destroy such commerce.

"Now, where are we at? Now it appears our bone-dry statute is a pure fake; shall we have any more prosecutions under it? Will our attorney general confess that we have been fearfully mistaken and that there is no bone-dry statute; will he try to undo the past wrongs of the fakers and to open the way for every person to get his good anti-flu medicine?

"And now a word in regard to the dose of liquor and quinine. When a person is taken with the flu, he is as a person bitten by a rattlesnake. He can drink liquor like water until he has had enough, because one poison kills the other. Drink till you feel happy. Go to bed and sweat. Take a quinine pill with every two or three swallows of the good medicine. Eat plenty of good steak or

roast beef, and then like a christian scientist, you may order the flu to go to the hot place."

JAMES E. ROBINSON.

Even in this age when a federal judge has not considered it improper to become a baseball magnate and in which to many persons newspaper headlines appear to be more to be desired than the approval of the bar and of the thoughtful public, we can nowhere find any parallel to the judicial travesty that now prevails in the state of North Dakota. If it were not a tragedy it would be a comedy. The tragedy of the whole matter lies in the fact that the law is being prostituted, that the people were told that it would be prostituted, and yet that by an overwhelming vote they have appeared to express a willingness that these things should be.

The Non-partisan management desired to make certain the judicial sanction of their program. They therefore picked their judicial candidates, and their followers supported them regardless of their qualifications.

We have but one comment to make—in order that there may be a stable government under the laws, the courts must be trusted, the courts must be respected, and in order to be respected they must themselves be respectable and respectful. Can and do these necessary things exist under the judicial theories and practices which for the last few years have prevailed in North Dakota? Can we afford to leave the selection of our judges to a socialist hierarchy, or to elect them by means of a class appeal?

CHAPTER XX

THE SUPREME COURT AND THE SCANDINAVIAN-AMERICAN BANK CASE

MUCH has been said of the so-called Fargo bank case and both sides to the controversy have sought to derive political capital therefrom. To the thoughtful observer the importance of the case will lie in its very confusion and in the lesson that it should serve to those who seek to make of the judge a representative of the temporary majority rather than a judicial officer. It was a fitting and a logical sequel to still another bank case, the Youman's case, which we will describe in the next chapter.

The Scandinavian-American Bank of Fargo was incorporated under the laws of North Dakota, was what is commonly called a state bank, and was therefore not subject to federal jurisdiction and control. The League transacted much of its banking business with it, and, especially before the Bank of North Dakota was organized, made large use of it as a financial agency. After the latter bank was incorporated, it and its officers dealt extensively with the local institution.¹ The bank was espe-

¹ According to the report of Deputy Bank Examiner P. E. Halldorson, which was made in April, 1919, the bank's excess loans amounted to \$410,140.75, and among these loans were \$11,300.00 to Townley's so-called Florida Sisal Trust, \$72,617.78 to the Non-partisan League, and \$130,000.00 to the Consumers' United Stores Co., which was a Non-partisan subsidiary organization. Of these excess loans, the Bank Examiner in his report says:

"It is needless to say that this line of credit is entirely too large regardless of the value of the collateral. It appears to me that a bank with a \$60,000 combined capital and surplus should not be permitted to carry a line so grossly excessive."

cially useful as a clearing house for the numerous post-dated checks, which, as we have before stated, the League accepted in payment of membership dues as well as of larger contributions from its wealthier members. These post-dated checks could, of course, in no sense have been termed good banking collateral, and it is quite clear that the federal banking authorities would not have recognized them as such.

In September, 1919, the State Board of Bank Examiners was composed of the Governor, Lynn J. Frazier, the Attorney-General, William Langer and the Secretary of State Thomas Hall. William Langer became suspicious that a large amount of the supposed assets of the local bank consisted of post-dated checks and similar securities and that the bank might be insolvent. He also was of the opinion that some of these checks had been negotiated with the Bank of North Dakota itself, but as that bank had steadily refused to have its books and accounts audited or examined either by the State Auditor or by the Banking Board, an examination of the affairs of the Fargo bank was the only method at hand of ascertaining the fact. An examination was therefore ordered and the deputy Bank Examiner, who conducted it, reported that the bank had some \$75,000 in post-dated checks among its assets, had largely exceeded its authorized loaning limit and was totally insolvent. The bank was therefore closed by the order of the board and a receiver was appointed. This action was of course a body-blow to the League as it seriously affected its credit and the negotiation of its unbankable securities. It was also charged that the action was actuated by political motives as at this time both the Attorney-General and the Secretary of State seem to have broken with the leaders of the farmers' organization. Of this little need be said. Even if the motives were

political, it is quite clear that the action was warranted, that the Banking Board would have been remiss in its duties if it had not taken it, and that the verdict of a Fargo jury which later convicted the president of the bank of the crime of making false representations to the examiner has sufficiently shown that all was not right with the affairs of the institution. It is true that later the friends of the bank rallied to its support and took up the rejected paper, but this was the result of strong pressure from the leaders of the League and of a public appeal which could hardly be considered a general bank asset or something that bank examiners should contemplate in the case of an insolvent institution.

Under the statutes of North Dakota, although the Board of Bank Examiners may close any bank when they see fit and appoint a temporary receiver, provision is made for an immediate hearing and review in the district court so that, if the action is unwarranted, as little harm as possible may be done. This course was open to the friends of the bank and of the League. It involved however a full hearing and a complete disclosure of the affairs of the bank. The District Judge had not long before decided an important case against the interests of the League and it was only "favorable" judges that they wished to deal with—judges, in short, who sensed the necessity of yielding to the wishes of the temporary majority. They therefore decided to take direct action in the Supreme Court and made an application in that court to have the bank declared solvent and the receiver removed. The Supreme Court had as a matter of law no original jurisdiction in the case at all. It was a court of appeals and not a court in which cases could be tried in the first instance except in the rare cases where the state itself was compelled to bring an action to prevent its officers from being interfered

with in the execution of their duties, or in some other similar case which involved the franchises or prerogatives of the people of the state as a whole. The bank case was not such a case. The bank was a private bank. By their application to the Supreme Court the League and its friends were seeking not to protect a public officer in the exercise of his duties and his powers, but to have the Attorney-General of the state and the Banking Board enjoined from executing those duties and to have their receiver removed. The action was opposed to and not in aid of the sovereignty of the state. The proper and only procedure would have been to bring the action in the District Court, and then if necessary to appeal to the Supreme Court on the record and the testimony produced in the lower tribunal.

There can be no question of the insolvency of the bank and of its violation of the banking laws. It was closed on October 2, 1919. Its combined capital and surplus was \$60,000. The report of the Deputy Bank Examiner which was made at that time showed liabilities of \$1,606,847 of which \$700,000 were for individual deposits and more than \$900,000 for money due to other banks. It showed excess loans of \$734,194.32 of which \$432,956.00 were made to the National Non-partisan League and to its affiliated organizations. In some instances the only security for these loans was post-dated checks and notes given by farmers and used as collateral for a series of accommodation notes signed by various organizers and officials of the League's various subsidiary organizations.

The Supreme Court, however, not only allowed the action to be brought but it dismissed the receiver and enjoined the Attorney-General and the Banking Board from interfering with the bank. On the hearing it refused to allow the Attorney-General to examine witnesses

or to submit oral testimony. And it decided the case purely on ex parte affidavits which were produced by the League and by the bank. It even went so far as to hold that the bank was solvent and that the post-dated checks were good bank collateral. There are few court records which are more grotesque.²

²In this case Chief Justice A. M. Christianson and Associate Justice Luther E. Birdzell dissented, and were fully vindicated in February, 1921, when the League's officials were themselves compelled to close the bank.

CHAPTER XXI

THE YOUMANS BANK CASE AND THE SUPREME TEST OF GOVERNMENT

THIS case was however but a sequel to another case, that of *Youmans v. Hanna*.

Youmans was a real estate dealer and a banker of some notoriety. He had early espoused the cause of the Non-partisan League. He had been especially prominent in connection with some riots or near-riots which had taken place at the city of Minot, North Dakota, during which some meetings of the members of the I. W. W. were sought to be dispersed, and he had vigorously espoused the cause of the brotherhood. He was therefore popular both with the members of the League and with the I. W. W. The League was bitterly opposed to the then governor, Louis B. Hanna, who by virtue of his office was a member of the State Banking Board. Prior to the incumbency of Governor Hanna, and during the administration of Governor Burke, the Banking Board had made complaint concerning the management of the institution, an adverse report had been made, and the bank had been directed to retire and replace its unbankable securities. During the administration of Governor Hanna complaint was again made; investigation was had, and it was discovered that Mr. Youmans had been in the habit of obtaining first mortgages on farming lands, and small second com-

mission mortgages on the same property; to sell these larger first mortgages in the East and through his trust company, then later on, in default of payment, to foreclose the second or commission mortgages, and to bid in the land at the sales. He would then go upon the street, find some harvest hand or other similar person, give him a deed of the land, then take back from such person a note and mortgage for a considerable amount; then in order to make everything secure, he would take back a deed of the land, and then, in spite of the fact that the first mortgages were still outstanding and of course prior liens, he would turn the notes and mortgages into the bank at their face value. There can be no doubt as to the fact of these transactions, nor can there be any doubt that the harvest hands who executed the notes and mortgages were often mere tramps, nor that the deeds that were given back to Mr. Youmans were considered to be of so little value that he had secured at least twenty of them for the sum of two dollars. When the Banking Board again investigated this bank during the term of office of Governor Hanna, they found some sixty thousand dollars worth of these notes and securities among the assets of the bank. Mr. Youmans failed to replace them with good securities, and the bank was closed. A little later Mr. Youmans sold his interest in the bank to some local parties. Later, however, he brought a suit for damages against the members of the Banking Board, charging a conspiracy to wreck his bank.

The case was tried at Minot, North Dakota, Mr. Youmans being represented by Arthur Le Sueur, who since has been and at that time was the counsel for the I. W. W., and by James Manahan of St. Paul, who has always been prominent in the councils of the Non-partisan League. During the trial, the court room was filled with

rowdies, and the judge was frequently threatened and intimidated.¹

¹In charging the jury Judge Kneeshaw said:

"Now, gentlemen of the jury, I cannot refrain from making a few remarks with reference to my coming here, and certain matters that transpired during the trial. I was invited to come here and preside in this case. I did not know at the time I came here what the case was. If I had known what the case was, I assure you that I would never have been here. I have endeavored during the time I have been here to try the case honestly and fairly upon my part. It is my duty under the law and under my oath as a judge of this state to decide a case fairly and impartially on the law, and decide all questions of law. I have attempted to do so. Lots of evidence has been stricken out and lots of evidence has been rejected on proper objection. I did so believing that I was acting rightly under the law doing so. I believe I am right. If I were not, they have redress in the Supreme Court, and it is my fault if I made any mistake in that respect, and it is not your fault.

"Now there are many things that transpired here. I have seen some disgraceful proceedings by the audience in this case, some things I have never seen in any court of justice before. It indicates to me that there are certain people in this audience—I don't know who they are, I don't know at the present time, but during the trial of this case—who must have perverted minds, people who would trample our beautiful flag of stars and stripes, men who are not entitled to live in any community, and I am ashamed of them.

"I have also heard remarks pass while I have been here, meaning that I have been unfair and unjust; that I have not given the plaintiff a fair show. I have heard remarks of a certain person who stated that 'that little judge, before Manahan gets through with him, he would be down on his knees to him,' and remarks of that kind.

"Now, gentlemen of the jury, I have endeavored to do my duty as an American citizen, honestly, faithfully, and justly in the sight of God, and I am not ashamed of anything that I have done at this trial.

"Another matter that has transpired and I desire as a matter of privilege to speak about it, and that is this: while walking down town to-day after dinner, I walked ahead of a couple of gentlemen who I am sorry to say are attorneys in this case, and I heard certain remarks. I was with a gentleman who heard them at the same time, stating words to this effect: 'That we will have a meeting in the opera house next Sunday, and it will be crowded to overflowing, and I will remain here until that time, and we will talk the case over from beginning to end, and we will show them how this case originated!' And the other person with him said: 'Yes; and they are going to have a meeting to-day, and we will do the same thing!' I want to say I am not afraid of them; I am not afraid of a living soul; I am not afraid of any anarchist in this court or this state and I am prepared to do my duty, as I understand it under my oath, and in the presence of Almighty God. And they cannot bulldoze me or frighten me in any respect. I have no right under the law to usurp the functions of a jury. I have no right to pass upon any question of fact. I have a right to instruct the jury on questions of law, and it is their duty, under their

The trial judge however directed a verdict for the defendants, and an appeal was taken to the Supreme Court. The Supreme Court affirmed the judgment.

The case indeed was a clear one. All of the material facts were admitted by Mr. Youmans himself, and his only justification was that "it was a bankers' trick." It must be apparent to all that there can be no conspiracy to do that which is lawful and what the law requires to be done, and that the Banking Board would have been remiss in its duty if it had allowed the bank to remain open. Soon after the decision of the Supreme Court, however, three of its judges were defeated at the polls, and three Non-partisan judges were elected. The decision was handed down during the latter part of November. Under the rules of the court twenty days are allowed for the filing of a petition for a rehearing, and if such petition is not filed or when filed is denied, the decision becomes final. The twenty days would not expire until the middle of the month of December. If the three new judges took their seats on the first day of December, they could pass upon the petition for a rehearing. If not, the old judges would then render final decision in the case. Never in the history of the state had newly elected judges taken their seats until the January following an election, and every prominent lawyer understood the constitution so to provide. The three new judges, however, came down to the capital and demanded their seats on the first day of December. The three old judges refused to vacate their seats. The matter was of great importance, for not only the Youmans case but every decision rendered during the

oaths, to accept the law as given by me, and I state to you, gentlemen of the jury, that in my opinion the plaintiff has wholly failed to make a case, that there is no evidence or question of fact to be submitted to you, and I instruct you to find a verdict in favor of the defendants and will ask one of the jurors to sign the verdict."

month of December was involved, and one of the three new judges had publicly asserted that if they did not obtain their seats by December first, he and his associates would later refuse to recognize any decision of the old court which was rendered during the disputed month. The situation was one which in Mexico and the Central American states would probably have resulted in civil war. There were fears that it might result in a riot even in North Dakota. There had to be some constitutional and legal solution, for the only alternative was barricaded doors and perhaps the machine gun. Three judges supported, by a victory-flushed electorate, were marching up the hill three judges with nothing behind them but the minority and the law were refusing to give up their seats; the two other supreme court judges were powerless to transact business by themselves. They were determined, however, that the law and not force or political intimidation should prevail.

The attorney-general, Henry Linde, was called upon, and fortunately he was not a Non-partisan. He filed a petition in the Supreme Court on behalf of the sovereign people of the state. In that petition he stated that there was a dispute over the membership of the Supreme Court during the month of December, and that the people of the state wished the matter decided. He stated that it was of great importance to all that the law should be properly administered, and that the decisions handed down during the month in dispute should be valid and binding.

But who constituted the Supreme Court? Who could pass upon the question? The three judges whose seats were being contested were certainly disqualified and could not sit. The three claimants were manifestly disqualified though Mr. Robinson insisted that they were not and

that they could sit in judgment in their own case. Later one of them, Mr. Justice Robinson, actually did so.

The constitution provided that if at any time a supreme court justice was disqualified, a district judge could be called to sit in his place. One by one the sitting judges stated their disqualifications, and a district judge was called in. This continued until a complete bench of five district judges had been obtained. An entire new bench was necessary, for even the two hold-over judges were themselves morally disqualified, because the determination of the question whether the term of office expired in December or in January would later affect them also. It at first had appeared as if there was no supreme tribunal in the state, and that force must prevail. The state had come to the jumping-off place of government. The dilemma, however, was met by this means:

Orders to show cause were served on all of the judges, both on the old members and on the claimants, and the case was set for argument.

The three claimants stated that they would not recognize the jurisdiction of the new court, and served notices on the district judges, ordering them not to sit under penalty of their displeasure. Two of the claimants did not appear at the trial at all. The other, James Robinson, appeared merely to question the jurisdiction of the court, though he lost his temper and entered into a full argument on the merits of the case. They all termed the court "a Kangaroo Court." The writer, who was one of the hold-over judges, sought to bring about as peaceful a solution as possible, and suggested to William Langer, attorney for the claimants, that if any one questioned the impartiality of any of the district judges, others would be called in; and he urged an amicable settlement of the controversy. William Langer had himself been recently

elected attorney-general by the votes of the League, though he did not claim that he was entitled to take his office until January, 1917.

He said that he would consult higher authority. The higher authority was Mr. William Lemke. Lemke replied, "We won't submit to this or any other court! We have twenty thousand majority."

The improvised court, however, sat. It decided in favor of the old members, and the supreme tribunal as formerly constituted sat during the month of December and passed upon the petition for a rehearing in the Youmans case, which it promptly and properly denied.

But the question still remained whether the three claimants would yield to the decision, and whether, when they took their offices in January, they would recognize anything that their predecessors had done in December. A few days later, therefore, at a banquet which was held for the purpose of stimulating interest in the war and at which many of the leaders of both factions were present, the writer decided to force the issue. He had been called upon to respond to a toast. He spoke of the fact that in Europe we were fighting for a government by law among nations. He stated that we must preserve that government at home. He referred to the recent case in the state of North Dakota, and to the threats of the new judges. He quoted the threat of the politician who had stated that "his faction had twenty thousand majority." He then, in all confidence, turned to Governor Frazier and said, "But, Governor, twenty thousand or one hundred thousand, I am of the opinion that the sense of law, and order, and good government is still strong in North Dakota, and that no man will dare disobey the decision of that court."

It was perhaps a bold statement, but the speaker was

justified in making it. For though they have temporized and excused and vacillated, the three new judges have not as yet undone that which was done by the old court in the month of December, 1916.

They did, however, allow three other petitions for rehearings to be filed, and at least two to be argued. Two of these petitions were in the Youmans case, and the other was in a case which involved the same question of jurisdiction during the month of December.

On the first of these petitions four district judges were again called in, but Mr. Justice Robinson again insisted on sitting as a judge in his own case. After the argument the four district judges again decided against Mr. Youmans and against the contention of the three Non-partisan judges. This should have been sufficient, but a third petition was later filed, and the array of counsel for the appellants was strengthened by the name of William Lemke, as special counsel. Mr. Lemke was then not only a prominent leader of the Non-partisan League, but chairman of the State Republican Committee which the League had captured. He was employed no doubt to impress the writer, whose term of office was about to expire, that the primary elections were near and that an adverse decision might not be conducive to victory at the polls. Against the protest of the two older judges, this petition was allowed to be filed, and was allowed to remain in the court for nearly two years. Finally Mr. Justice Birdzell consented to join in its denial. Mr. Justice Robinson and Mr. Justice Grace dissented.

The petition of course should never have been filed. The old rule seems to have been that a final judgment and the sending down of the final order or remittitur by the Supreme Court ended the lawsuit. The new Non-partisan rule seems to be that there is no such thing as a final

judgment, and that every man's title and right to property is subject to the possibility of a change in the personnel of the appellate court, and to the chance that some lawyer or litigant may make the new court believe that, at some period in the proceedings or in some step in the chain of title, a jury had been misinformed or an erroneous judgment had been rendered.

We have elsewhere referred to the so-called Regents Case, and to the travesty of the Scandinavian-American Bank decision.

CHAPTER XXII

THE PROOF OF THE PUDDING AND THE REVOLUTION WITHIN THE REVOLUTION

JUST as the autocracy of the old McKenzie regime was sooner or later bound to bring about a revolt, so was that of the new socialist hierarchy. A. C. Townley can brook no rivals, and in the new West all consider themselves worthy of leadership, and there are and always will be many who aspire thereto.

Perhaps the first rebel was M. P. Johnson, who formerly had been prominent in the affairs of the Society of Equity, and who soon became distrustful of the new movement, which in its beginnings at any rate, was only seeking to do in another form that which the society was already accomplishing.

The next rebel was Theodore Nelson, who also had been prominent in Equity circles. It was he who early organized the so-called Independent Voters' League which has since served as a nucleus for the opposition.

Both Johnson and Nelson believed in coöperation. They did not, however, believe in socialism, and above all they repudiated the lawlessness and autocracy of the new leaders. Indeed from the beginning, the Society of Equity has at heart been opposed to Townleyism, and although its coöperative exchange was early forced into a declaration of allegiance by the threat that its elevator would be boycotted by the farmers, the leaders of the society as a whole have always asserted that coöperation

rather than state-ownership would furnish the solution of the difficulties in the grain trade, and to-day even the coöperative exchange is growing restless.¹

Next, a so-called Good-government League was organized, which sought to achieve success by means of educational propaganda. This organization was headed, if not officered, by so-called "old liners," many of whom had long since lost their influence over the voters. It therefore accomplished but little and had soon to be abandoned on account of lack of support.

The real revolt against the League's hierarchy came in 1919, when the attorney-general, William Langer, the state auditor, Carl Kositzky, and the secretary of state, Thomas Hall, raised the standard of revolt. All of these men had formerly been members of the League and had been elected by its suffrage. Even since their rebellion they have never claimed to be opposed to the organization as an organization, nor have they at any time renounced their allegiance to its original industrial program. Their opposition was clearly stated by William Langer in a number of public addresses in which he said:

"A few years ago North Dakota wanted certain definite specific reforms. We wanted state-owned elevators, mills and packing-plants and better marketing conditions, and in addition certain better tax reforms.

"We all got together, paid our money and signed the same agreement. An executive committee of five men appointed themselves and every time we signed an agreement these five men's names were at the head of it—

¹ In Minnesota the hostility of the friends of the Society of Equity had much to do with the defeat of the Non-partisan candidate for governor at the November, 1920, elections; while in the Wisconsin primary the Society had an active candidate of its own in the field. In South Dakota also the Society has never been friendly to the new movement, and its most active officer, former Congressman J. E. Kelly, has persistently urged coöperation rather than state-ownership.

A. C. Townley, F. B. Wood, O. S. Evans and E. A. Bowman.

"We went out over the state and told the farmers what we would do when we were elected; we went to Bismarck and had control of all the executive offices, the house, and lacked one vote in the senate.

"But three men, Townley and Wood, realizing the tremendous political power of the 'North Dakota *Leader*' and other league papers met secretly and ran things to suit themselves. They were able to start the socialization of the state.

"It was impossible to get these men out of the executive offices because under the constitution which they themselves had framed for the Non-partisan League, they themselves met as the executive committee to re-elect themselves as successors to themselves.

"We, you and I, still have a chance to see our hopes come true. We still have a chance to get our experiment in state-owned mills, elevators and packing plants. And if elected governor I will do all in my power to see that we get a reasonable experiment and not an extravagant expenditure of \$17,000,000.

"There never was a more harmonious convention than that at Minot. Farmers, lawyers, book-keepers, clerks, railroad men, bankers, stenographers, plumbers, mechanics, met and named men from among themselves as delegates. They met and they adopted as planks in the Republican state platform, *every single feature which you farmers wanted that was in the original Non-partisan program.*

"But, they didn't endorse Neil Macdonald in a fight against Minnie Nielson; they didn't endorse a bank which is run as a private institution for the benefit of the friends of Waters, Cathro, Townley and Frazier. They

didn't endorse a state sheriff law that adds another expensive officer to the state payroll and deprives your county sheriffs of their powers; they didn't endorse an absent voters law that would let a crooked bunch go out and buy votes three weeks in advance of election, buy enough until they had the election cinched; they didn't endorse free love, or the I. W. W.; they didn't endorse a law which will let a smelling committee come to your home and look over your personal books or read or even make public your love letters which your wife has saved; and furthermore they didn't endorse the flying of the red flag of socialists or the black flag of anarchy.

"Republicanism is not Townleyism. It is Americanism, and it doesn't stand for the pardoning of Kate Richards O'Hare. It does stand for the things you thought you would get but didn't.

"I say to you, fellow citizens of North Dakota, that if I am elected governor, that before the sun sets on the first day I am in office I will see that there is a committee appointed to investigate the Bank of North Dakota.

"I want to know; I want to find out why farmers in North Dakota could not get loans from the State Bank when a man in St. Paul got \$50,000 of your money. I want to find out why a friend of Jim Waters living in Wisconsin got \$20,000; why Ray McKaig, who is in Idaho working for Townley, got \$7,500 on land which the assessor stated was only worth that amount at its fullest value. I want to find out about all these things.

"I want to find out why the farmers could not cash their hail insurance warrants when this money was being handed out." I will make this pledge to you that if I find anything crooked in the State Bank of North Dakota, every man responsible for it will go to the penitentiary!

"Another thing I will do will be to write to Woodrow

Wilson and in that letter I will say 'Mr. President, a few months ago the former governor of North Dakota wrote you a letter asking you to pardon Kate Richards O'Hare. You pardoned her. I wish to tell you that the people of North Dakota do not thank you for having pardoned her.'

"In these ten days a great horde of socialists—men gathered from all corners of the world—are coming into North Dakota to tell you people how you shall vote in your election.

"They are coming to tell you men and women of the farms, you workers, you business men and women, you professional men and women, what you should do with your own ballot on election day. These men have no interest in North Dakota.

"As I have often stated when I speak of the Non-partisan league I do not refer to the farmers, but I refer to the three men who own it; the three men who absolutely dictate the activities; the three men who have been advised and counseled by Kate Richards O'Hare, David Coates, Walter Thomas Mills, Eugene V. Debs, Spurgeon O'Dell, Max Eastman, Karl Marx and all the radicals and extremists of the United States.

"If you believe in socialism, that is your privilege. However, I do not propose to sit idly by and see this state operated and dictated to by men such as control the league which the farmer joined in order to secure those things which he desired, and under the guise of a farmers' movement passed laws that have wrecked the credit of the state, thrown the state in chaos, and which have permitted them to have an unchecked use of state funds and control the educational system.

"I don't know how you feel about it, but I don't want my little girl going to school and reading or studying

from books either written or approved by such people as Walter Thomas Mills or Kate Richards O'Hare.

"The time has come for the people of North Dakota to decide whether the seat of government of North Dakota shall be brought back to Bismarck from St. Paul and whether the people or Townley shall rule. The people must decide whether a state official under a solemn oath to serve the people must be the abject tool of Townley or be sacrificed.

"More than a year ago I dedicated myself to the defeat of Townley and his ring of imported politicians. My tours through the state and the petitions of thousands of farmers and others have convinced me that the fight can best be continued by my becoming a candidate for governor at this time.

"I stand to-day as a candidate for governor, advocating the same things I did three years ago and one year ago. Among them:

"Rural-credit banks operated at cost.

"State-owned flour mills and terminal elevators under a non-political expert management and limited to reasonable expenditures.

"A more practical and efficient hail insurance law.

"An extensive system of irrigation in western North Dakota.

"Protection of legitimate private interests.

"Increased salaries for teachers and better school conditions.

"Reduction of high cost of living.

"A square deal for the laborer, the farmer, the business and professional man.

"Decentralization of the executive power now lodged in the hands of the governor.

"Independent and impartial audit of the state industries.

"Such assistance to returned service men by bonus and otherwise as will express to them the gratitude of a grateful state.

"State assistance to coöperate enterprises.

"Farmer representation on all boards.

"Protection of the farmer and his property from the I. W. W.

"Protection of the people from the profiteer.

"Whole-time health officer residing at the capital.

"Return of powers to the state superintendent of instruction.

"Impartial enforcement of laws.

"Lower taxes.

"Freedom of speech.

"Government of North Dakota by North Dakota men and women.

"Three years ago when a candidate for attorney-general, I publicly pledged my best efforts to serve all of the people of the state. That pledge I have kept. I have been the attorney-general for all of the people and have not permitted myself to become the chattel, rubber stamp, plaything or tool of A. C. Townley, or any other political boss.

"I have honestly used my utmost endeavor to carry out the platform upon which I was elected. On the other hand Townley has made no honest effort to carry out that program but has acted at all times from selfish motives and has built up a personal political machine, which is controlled absolutely by him, and which not only extends to the newspapers and banks which he has organized, but extends into the very legislative halls of the state, and even controls many state officials."

Of all these charges, perhaps those in regard to mismanagement and excessive taxation had the greatest effect upon the voters. And perhaps the greatest mistake that was made by the League, was the refusal of its officials to allow the State Auditor to examine the books and accounts of the State Bank of North Dakota, and of the Scandinavian Bank at Fargo. The latter institution had large dealings with the Bank of North Dakota and for a time was closed by the State Board of Bank Examiners on account of excessive and unlawful loans and on account of the fact that among its assets were a number of post-dated checks, which were given by the farmers for membership in the League and many of which were charged to have been carried by the Bank of North Dakota itself. Even if as a matter of law the bank officials were acting within their legal rights in refusing this examination and the statute limited the express powers of examination of the State Auditor to certain specified institutions and offices, and the banks in question were not among them, it certainly was a political mistake to refuse the state's financial officer permission to examine the books of a great state-owned bank in the conduct and solvency of which all of the people of North Dakota were vitally interested.

In considering the question of excessive taxation, allowance should of course be made, and perhaps, has not been generally made by the opposition, for the largely increased cost in materials and services which have followed the war. There can be no doubt, however, that the desire to give jobs to the faithful, materially added to the pay-rolls of the state, and that much of the increase in taxation was not only due to this cause, but to the fact that numerous expensive state commissions had been created, which had to be manned and provided

for, and that provision had to be made for the payment of the interest on the bonds of various state industrial enterprises, which for many years could not possibly do more than pay expenses, and many of which perhaps might fail entirely. The overhead expenses of the state government at any rate increased so largely that F. E. Packard, a former member of the Tax Commission, and later an assistant attorney-general of the state, estimated that even after the tax levy of 1919 there was a deficit of some \$740,908.00, although the tax levy showed an increase of 64.99 per cent over the levy for the year 1915. Not only was this the case, but the tax on farm lands was in many instances trebled, and in some, even quadrupled. This large land tax was of course partly due to the single-tax measures that had been adopted, and which sought to place the burden of taxation upon the land and largely to exempt the improvements. It is very clear, however, that the exemption of the improvements in most instances benefited the farmers but little, as North Dakota is largely devoted to grain raising and the value of the personal property and improvements on the average farm is but small. In many parts of the state, even machinery sheds are practically unknown. It is a noticeable fact, also, that the taxes on the railway companies were but slightly raised, and though the writer has always been of the opinion that the railroads of North Dakota have for many years been over-assessed, and have paid more than their legitimate share of the cost of government, a reduction of these taxes, or favoritism to the companies in any way, would hardly prove popular among an insurgent people whose leaders were persistently denouncing "Big Business" in all of its forms.

All of these facts are conclusively proved by the re-

ports of the League's own tax commissioner, George Wallace. These reports show that while in 1917 farm lands paid 51.418 per cent of the total taxes of the state, they, in 1919, paid 70.36 per cent; that while the railroads in 1918 paid 19.297 per cent of the total, they, in 1919, paid only 14.343 per cent.

We have before intimated that much of the increase in taxation was due, and no doubt necessarily due, to the increased cost of materials and personal services of all kinds. But this does not account for the fact that although the state levies for 1919 were probably three times as large as those for 1918, the taxes which were raised for county purposes were only 43 per cent greater, and if it had not been for a large expenditure for county roads, would probably have showed an increase of only 13 per cent. Added to all this was an increased state bonded indebtedness of \$17,000,000.

North Dakota has a population of only 650,000 people and its taxation for the purposes of government should be comparatively light. The taxes which were raised by the Non-partisan administration for all purposes in 1919 reached the enormous total of \$33,289,457.02 or a tax of \$51.21 on every man, woman and child within the state.² In 1918 and before the League assumed

²The taxes raised in 1919, together with the final disposition, are as follows:

Total state	\$ 3,742,616.08
Total county	7,952,002.20
Total township	2,985,308.21
Total school	11,215,219.25
City, town or village	2,324,658.76
Total general	28,219,804.50
3c flat hail	857,560.19
Indemnity acreage	3,102,087.75
Special assess. (city)	1,007,200.69
Special assess. (county)	102,803.98
Grand total	\$33,289,457.02

complete control the state tax was \$1,772,622.91. In 1919 it was \$3,742,616.08.²

Coupled with these charges of overtaxation and of mismanagement were charges that though reduced interest rates had been promised to the farmer and though the Board of University and School Lands, which had the control of the school fund and the funds derived from the federal land grants, only charged 5 per cent on its loans and the Federal Loan Bank only 5½ per cent, the Bank of North Dakota, from which so much was expected, not only exacted 6 per cent, but a bonus of \$5.00 a thousand which had to be sent with each application and was kept by the bank whether the loan was approved or not.

Complaint was also made that the Bank of North Dakota imposed an indirect tax upon every tax payer of the state by demanding a deposit with it of all state, county, and township funds, for which it only paid 2 per cent interest on balances, while the bank itself reloaned the money to local banks and received 4 per cent therefor. It was also charged that the bank made large loans to favored persons outside of the state and that loans even had been made to some of the League's favorites to aid them in their private enterprises. It was also charged, and no doubt with truth, that the bank had materially aided in the negotiation of the League's post-dated checks.

These charges should have been met squarely, and the refusal to allow the State Auditor to Examine the affairs of the bank could only create distrust. It is true that the bank was made subject to an examination by the Bank Examiner, but not only was that examiner an appointee of the League, but the statute which conferred upon him the power of examination inadvertently, or by

the grossest exercise of political trickery, only gave that power as to the assets which were actually in the bank, and merely required the examiner to see that these assets were correctly carried on the books of the institution. It gave the examiner no power of investigation as to the liabilities of the bank, or even as to the assets which were not in its actual possession.

Added to all this was the fact that as yet the League had accomplished nothing save the purchase of one small mill for experimental purposes, and the beginning of the construction of one large elevator and mill.

The farmer of North Dakota had been led to believe that the high prices of recent years were due to the new organization and to the influence of A. C. Townley at the national capital, and that these high prices more than compensated for what he was compelled to pay in the form of increased taxes and voluntary and enforced contributions. He was roughly disillusioned, however, by Senator A. J. Gronna, himself at this time a Non-partisan, who in a public letter said:

"In order to meet this charge, it appears that Mr. Townley has put up a man of straw to knock down. He says, and has instructed his speakers to say, that he never wired President Wilson to the effect that a maximum price of \$1.65 on wheat would satisfy the farmers.

"I have not said that he did send such a telegram. What I have said, and what I now repeat is that when the senators from the wheat growing states called upon the President to request his sanction of the Gore bill, fixing the minimum price of wheat at \$2.50, we had read to us a telegram signed by Townley stating that the farmers cheerfully acquiesce in the price prevailing during the previous crop year. This telegram defeated the Gore bill. The Gore bill was introduced in order to encourage

the production of wheat after a series of conferences, during which Hoover pointed out the danger of our allies due to the shortage of breadstuff. It was agreed that production would be encouraged by a guaranteed minimum price of \$2.50, and that no maximum should be fixed. The bill passed by two-thirds majority in the senate and by a majority in the house. President Wilson declined to sign the bill, and when he was urged by senators from the wheat growing states to reconsider the bill, he showed us Townley's telegram and said:

"The president of the farmers is opposed to the Gore bill and says that the farmers cheerfully acquiesce in the fixing of a maximum price on the basis of the prices prevailing during the previous crop year.'

"This is in effect what President Wilson told us. There is not and cannot be any mistake about that. Townley's telegram did defeat the Gore bill, and its defeat cost the farmers of this state millions of dollars."

CHAPTER XXIII

THE NEW REVOLUTION AND THE PRIMARIES OF 1920

THE result of all this was the endorsement by the conservatives of William Langer, Charles Kositzky, and Thomas Hall as candidates for the office of governor, state auditor, and attorney-general, respectively, at the primaries of 1920, and the placing of a general opposition ticket in the field. At these elections, though they failed to nominate William Langer by a few thousand votes, the conservatives carried nearly all the eastern and more prosperous counties of the state, and succeeded in nominating Kositzky as state auditor, and Hall as secretary of state, as well as two out of three members of congress; John Steen, an old line Republican, as state treasurer, and two out of three members of the Railroad Commission. They also succeeded in obtaining majorities for A. M. Christianson, their candidates for the Supreme Bench and Miss Minnie Nielson, their candidate for state superintendent of public instruction, although both of these persons were on so-called non-political tickets, and, as there were only two candidates for each office, would again have to come before the people in the fall election. They nominated enough members of the lower house to assure them the control. Dr. E. F. Ladd, the former president of the agricultural college, was nominated by the Non-partisans as the Republican candidate for the United States Senate against the present incumbent, Ansel J. Gronna. This, however,

was hardly a defeat for the conservative faction, as Senator Gronna was himself a member of the League and had sought the endorsement of both factions.

Miss Minnie Nielson received the largest vote of any of the conservative candidates. This fact was significant as the office of state superintendent of public instruction was at that time the only state office for which women had a vote.

The most noticeable feature of this revolt was that autocracy, excessive taxation, and mismanagement, were the only grounds of attack and the only grounds on which a united opposition could be based, and that, though the leadership of the League was opposed, its industrial program was endorsed.¹

¹ In a public address William Langer said:

"For myself, I say that I stand to-day where I stood three years ago and one year ago upon the platform of being unequivocally and wholeheartedly in favor of better marketing conditions, in favor of giving the farmer every penny he earns, in favor of taking from the Minneapolis Chamber of Commerce and other corporations, any influence that they may have either directly or indirectly in the state government. I favor now, as I favored at that time, the lowest possible interest rate because the lower rate of interest the farmers obtain the more prosperity it spells for us all.

"The platform I published when I announced my candidacy is identical with what I believed to be the original League program three years ago and one year ago, and I stand squarely upon that. I am opposed now, as then, to inefficiency, incompetency and graft in office, and stand for absolute honesty in all affairs. The additional planks in my platform beyond the original farmers' program are known to you all and surely there is not one of them but that will receive the universal endorsement of every honest person in the state.

"We now have the machinery to give the people of this state an opportunity to elect delegates and make their choice at a Republican state convention, fairly constituted. I will abide by the result of that convention.

"In the fight that is on between now and June 30 every one must be either on one side or the other. You either back up a state government that to-day favors men like Waters, Frazier, Townley, Hagan, Loftus and McDonald and many untried and dangerous experiments which were never dreamed of at the time the original League program was promulgated, or else you stand with the honest farmers and business men of this state, anxious to promote the welfare, happiness and prosperity of this state."

When we turn to Minnesota, and it is in North Dakota and Minnesota that the League has its greatest influence, we find a seeming victory for the conservatives at the primary elections of 1920, but a victory which was almost a defeat. In spite of the fact that the League failed to nominate its candidate, Henrik Shipstead, it seemed to have gained approximately four per cent. in membership in the interim between June, 1919, and June, 1920, and to have increased its following of 43 per cent. of the total vote in 1918 to 47 per cent. in 1920.

In 1918 the Non-partisan organization carried 30 of the 86 counties of Minnesota. On June 21, 1920, it carried 42. In the Republican primaries of 1918, Governor Burnquist was supported by the conservatives, and Charles A. Lindbergh was supported by the League. At that election, Governor Burnquist received 199,325, and Charles A. Lindbergh 150,626 votes. Burnquist therefore had 57 per cent. of the votes and Lindbergh 43 per cent. In the primaries of 1920, J. A. O. Preus, the regular Republican nominee, received 44 per cent. and Dr. Henrik Shipstead, the Non-partisan candidate, 41 per cent. and four other candidates a combined vote of 15 per cent. This 15 per cent. however, and the fact that the four candidates mentioned belonged to the conservative faction, no doubt reduced the Preus majority, and a better estimate can therefore be given by comparing the votes on the office of lieutenant-governor, for which there were only two candidates. For this office Louis L. Collins, the regular Republican candidate, received 155,101 votes, and George Mallon, the Non-partisan candidate, received 137,915, or in other words Collins received 57 per cent. of the votes and Mallon 43 per cent., and if this vote can be taken as test, the League showed a gain of 4 per cent. and the Republicans a loss of 4 per cent. It is

noticeable, however, that in Minnesota, as well as in North Dakota, the League's strength is largely in the new, sandy, and sparsely settled counties, and that the older, more prosperous, and better-cultivated counties are still to be found in the conservative column.

In Montana the Non-partisans captured the nomination for governor in the Democratic primaries, and in Colorado and Wisconsin were equally successful in those of the Republican party. Otherwise their successes were slight, and they gained but little if at all in their legislative support.

CHAPTER XXIV

THE GENERAL ELECTIONS OF NOVEMBER, 1920

AT the general elections which were held in the fall of 1920, the conservative forces were generally successful, and in spite of the election of Governor Frazier they won a victory even in North Dakota.

In Minnesota the victory was decisive and resulted in the election of the regular Republican gubernatorial candidate, Jacob Preus, by a plurality of some 145,000 and the election of the remainder of the state ticket including the conservatives' candidate for the supreme bench, Homer B. Dibell, by even larger majorities. It also resulted in reclaiming for the conservatives the control of no less than thirty counties which had been carried at the primaries by the Non-partisans, and in the complete control of both houses of the legislature. This result was due to many causes. Chief among them was the fact that the women of the state had been enfranchised and these women as a class had no tolerance for the League's socialist doctrines or for its socialist hierarchy. So great indeed was the influence of the woman voters in the campaign that it has been estimated that at least 125,000 of the plurality votes should be credited to them.

Still another cause was the open endorsement by the regular Republican leaders and candidates of the policy of coöperative marketing, the candid acknowledgment of the justice of the complaints of the farmer, and a promise on their part to do all that they could do to fur-

ther what may almost be called the Society of Equity's plan of a control of the market by means of co-operative agencies. In short, it was a campaign of state and nationally-aided grain and stock and farm producers pooling and coöperative marketing agencies against state-owned industries, and against state and national socialism. Another reason was the lesson furnished by North Dakota of the high rate of taxation and the extravagant expenditures of money which the League's management and the League's policies had entailed. Last, but not least, was an extremely efficient campaign of education.

The loss of Minnesota was of course a bitter blow to the Non-partisan cause. It is at Minneapolis, St. Paul and Duluth that the hated boards of trade transact their business, it is in these cities that the grain of the Northwest must always be marketed, it is in them that the railroads of the Northwest and especially of the Dakotas converge and have their headquarters. Minnesota, too, is a state of great agricultural resources and has within its borders the largest iron deposits found within the United States and perhaps in the world.

Much indeed was expected of Minnesota and much reliance was placed on the fact that it contained within its borders not merely discontented farmers but a large number of radical laborers. Not only are there strong organizations of the socialists and of the I. W. W. in the cities of St. Paul, Minneapolis and Duluth, and not only has Minneapolis at times elected a socialist mayor, but it is to these cities that the transient laborers of the farms, the lumber camps and the mines of the Northwest have always congregated.

The victory of the conservatives was complete because the odds appeared to be against them. Since the defeat of their candidate for governor at the primaries, the

Non-partisans had formed a coalition with a so-called Working People's Non-partisan party the formation of which had been encouraged by Mr. Townley as a means of last resort. The gubernatorial candidate of this party withdrew in favor of Henrik Shipstead, the Non-partisan candidate, and a united front was thus made possible. The Democrats also had candidates in the field and made a vigorous campaign, and though the situation was somewhat neutralized by a Socialist ticket, the members of the Socialist party were mainly interested in voting for Eugene V. Debs for president, and in Minnesota, as in all of the other states of the West, seemed to have generally voted the Non-partisan ticket as far as the local state ticket was concerned.

The gods of politics, too, had been fickle and many things had transpired between the primaries and the fall elections to unite the factions. Not the least of these was the imprisonment in Minneapolis of a number of labor leaders for the violation of an injunction which restrained them from publishing a boycott and otherwise intimidating the proprietor of a moving-picture theatre who had had the temerity to operate his own machine rather than to employ a union operator. The unions bitterly resented this action, though it was absolutely justifiable and according to the principles of the established law. Processions of laboring-men thronged the streets and marched to the courtroom to utter their protest. In these demonstrations the Non-partisans joined and thus gained the friendship of the laboring-men. They had also expressed their sympathy for the doctrine of the closed shop, which had been the occasion of numerous unsuccessful strikes during the year. The Non-partisans also obtained many fresh recruits among the farmers on account of the sudden drop in the price of grain and other

food products which occurred during the month of October and which, though due to the high rates of exchange which made it possible for the Canadian farmers to sell their grain at a profit in the United States even after paying the tariff duties, was attributed to the manipulation of the market and especially to the machinations of the chambers of commerce of Minneapolis and Duluth. The fact still remained that even the reduced prices were the war prices of over two dollars a bushel and with which Mr. Townley, Governor Frazier, and the other leaders of the League had declared themselves satisfied, but the farmers had a vision of three dollar wheat, and where there is a vision discontent usually follows when that vision vanishes.

In Montana, though the Non-partisan faction had captured the primaries of the dominant Democratic party and had succeeded in nominating their candidate for governor, a coalition of the Republicans and Democrats resulted in a sweeping conservative victory in the fall election.

In Colorado, where the Non-partisans had captured the Republican primaries, the same coalition was formed, with the same results. In South Dakota there were three parties in the field, the Democratic, the Republican and the Non-partisan. The result was a sweeping victory for the Republicans, though the Non-partisans seem to have taken the second place in the contest.

In Wisconsin, Blaine the Non-partisan candidate for governor was elected. He was, however, perhaps a La Follette rather than a Non-partisan candidate and with the exception of his election the Non-partisan successes were inconsequential.

We now turn to North Dakota, and throughout this book we have dealt chiefly with North Dakota because

it is in that state alone that the League has as yet had complete control, and it is there alone that it has been possible to test results and to judge by works rather than by words.

At the June, 1920, primaries William Langer had been defeated by Governor Frazier by about 5,000 votes. Though the regular Republican candidates for the offices of secretary of state, state auditor and state treasurer had been nominated, and the conservative candidates for state superintendent of public instruction and justice of the supreme court, who in North Dakota are elected on a separate ticket on which the two highest at the primaries have a place, were still to be voted upon at the fall elections. In these elections the Non-partisans therefore supported Governor Frazier and the rest of their successful nominees on the regular Republican ticket and created an independent ticket for the election of their candidates for state superintendent of public instruction justice of the supreme court, state auditor, and state treasurer, and for the election of six district judges.

The regular republicans or conservatives formed a coalition with the Democrats and agreed to support the Democratic candidate for governor, J. F. T. O'Connor and the Democratic state ticket as a whole with the exception of the state auditor, the secretary of state, and the state treasurer. Both Republicans and Democrats united in supporting Miss Minnie E. Nielson for the office of superintendent of public instruction and A. M. Christianson as a candidate for re-election to the Supreme Court, as well as six conservative district judges.

And both the Republicans and Democrats united in supporting the various initiated measures to which we have before referred, which opened the books of the Bank of North Dakota to inspection and safeguarded its

investments, and which no longer made it obligatory on the county treasurers to deposit their funds therein; which repealed the state sheriff law, restored to Miss Minnie Nielson her former powers as superintendent of public instruction, repealed the state press law, and the law making it a criminal offense to criticise the Non-partisans' industrial program, and otherwise repudiated the terroristic legislation of the legislative session of 1919.

Considering the facts that it was a presidential year, that North Dakota is a strong Republican state, and that it is always difficult in such years to induce the partisan to forsake his regular ticket even for one candidate, and that the national management is always unwilling that he shall do so, the result was surprising. O'Connor, the Democratic candidate for governor was defeated by only 4,630 votes. The conservatives elected their candidates for state superintendent of public instruction, secretary of state, state treasurer, and justice of the supreme court as well as four out of the six district judges, two members of congress and enough members of the legislature to obtain the control of the lower house by three or possibly six votes. They lost the control of the upper house by only one member. Above all they secured the passage of all of their initiated measures. The Non-partisans it is true elected their governor, and with the exceptions mentioned the remainder of their state ticket, but only after the most strenuous of campaigns and the expenditure of hundreds of thousands of dollars. Such a victory was indeed a defeat. It was an emphatic vote of lack of confidence. If it had not been for the absent-voters' law which made it possible to corral votes and the fact that the election was held in a

presidential year, it is very doubtful whether there would have been any victory at all.

The initiated anti-Non-partisan measures were carried by majorities ranging from 19,231 to 8,173.¹ Senator Harding received 159,211 votes, Governor Cox 37,302, Eugene Debs 7,471 votes; Governor Frazier 117,118 votes and J. F. T. O'Connor 112,483 votes. The votes for the conservative candidates for railroad commissioner, secretary of state, state treasurer, superintendent of public instruction and justice of the supreme court were about the same as those cast for the initiated measures. The two Republican members of Congress were elected by a large majority. The majority for Congressman Young was especially noticeable as he had opposed the Plumb bill which the Non-partisans favored. Dr. E. F. Ladd, the Non-partisan candidate for United States senator, received the highest vote of all the candidates, his total vote was 130,614 votes against 88,495 votes for his Democratic opponent. This large vote was due to many causes, chief among which were the facts that the state is naturally Republican and that Dr. Ladd has always been popular. He had done very valuable work as a pure food inspector and investigator, and it is doubtful that he would ever have joined the Non-partisans if the animosity of the enemies that he had necessarily made while acting as such inspector had not embittered him towards the conservative faction which at the time of the formation of the League had the control of the state.

However, the importance to the League of the election of its candidates for governor, attorney-general, and state auditor cannot be overestimated. Even though

¹ That for the audit of the books of the Bank of North Dakota received the largest number.

the conservatives may have the control of the lower house, the Non-partisans still have the majority of the senate and the governor still retains the appointing power. The constitutional provision also makes the governor, the superintendent of public instruction, the attorney-general and the secretary of state the sole members of the State Board of University and School Lands, which is entrusted with the control, appraisement, rental and disposal of all school and university lands, including the federal land grant, and with the investment of the funds derived therefrom.

It is to this fact that the League's attacks on William Langer, the attorney-general, Thomas Hall, the secretary of state, Carl Kositzky, the state auditor, and Miss Minnie Nielson may largely be ascribed. It has long been the purpose of the League to control the disposition of these funds; it has long been its desire to make possible their investment in the securities and the bonds of the state-owned public utilities. In its proposed new constitution, which fortunately failed of adoption by the legislature of 1917, they even went so far as to remove United States bonds from the list of securities in which these funds could be invested. By the creation of the Bank of North Dakota and by requiring all state funds to be deposited therein, it made it possible for that bank, temporarily at any rate, to invest these funds in its favored industries and in loans to favored persons. It made it possible for that bank to loan to other banks such as the Scandinavian-American Bank of Fargo, and for those banks to loan to friends of the League and to the League's industries. The State Examiner's report of the Fargo bank showed that this had been done to a large extent and that among the beneficiaries was the so-called sisal trust in which A. C. Townley himself was

heavily interested. In the past, however, and while the conservatives still controlled the majority of the members of the Board of University and School Lands, some check could be imposed. That board could see to it that the state lands were not sold at a loss in order to gain ready funds and that the funds should be speedily invested in permanent securities. They could favor United States bonds as they did in April, 1919, when in the absence of Governor Frazier they invested \$300,000 in the fifth liberty loan.

CHAPTER XXV

AN ATTEMPT AT A COMPROMISE

FOR a time at least, it seemed that the results of the election of 1920, together with the panic, or near-panic, which the sudden decrease in the price of wheat and other farm products which began in the fall of 1920 had occasioned, might bring about a compromise between the two factions.

The League's propaganda had been only too successful, and had been only too implicitly relied upon. Its authors had told the farmers that, if they would only elect a League ticket, high prices were sure to prevail, and that sooner or later they would have a monopoly of the markets. The farmers therefore dreamed of \$3.50 and even of \$5.00 a bushel wheat, and of similar prices for other farm products. They kept their stock from the market, and though, following their usual practice, most of them had threshed from the shocks in the fields in August and September, they stored their crops until the slump in prices, which came with the large import of Canadian wheat, and the falling off of the foreign demand in the latter part of October. Since that time they have generally still refused to sell, and have been willing to risk lawsuits and foreclosures, hoping that a rise in the market will more than compensate for the added interest and court costs which they will be compelled to pay. It is estimated that on November 1st, 1920, 80 per cent of the wheat crop of 1920 still re-

maintained in the farmers' bins, and in the country mills and elevators.

The result was necessarily disastrous to all concerned. The banks were unable to make collections, yet in order to meet their current expenses, both their farmer depositors and their local merchants, who were equally hard pressed, and who were in turn carrying the farmers, were rapidly withdrawing their deposits.

Not only were a number of the weaker banks compelled to close their doors, but the packing house of the Society of Equity, which was located at Fargo, found itself confronted with a deficit of over \$700,000, and was compelled to suspend operations. Even the State Bank of North Dakota itself became seriously embarrassed, and the further construction of the terminal elevator and mill at Grand Forks had to be discontinued, as well as the operations of the Home Building and Rural Credit Board. So far indeed only \$60,000 of the \$2,000,000 bond issue for the construction of the terminal elevator had been sold, and the institution had been financed almost entirely by the central bank,¹ and even that bank was unable to dispose of its \$2,000,000 bond issue.

On account of the distrust of the management of the state finances, of the state's industrial program, and of the administration of the law which prevailed in the state, great difficulty at all times had been experienced in floating the state bonds and even farm mortgages in

¹ So far no audit had been made of the books of the small mill at Drake. However, it had been estimated that this institution had been operated at an annual loss of \$20,000, and though its manager, J. A. McGovern, refused either to affirm or to deny this estimate he candidly admitted that the mill had not been and could not be made profitable and tendered his resignation.

the eastern markets.² The bonds that were sold were usually sold to local banks, many of whom had been

²There were several reasons for this refusal. Undoubtedly one was a desire to bring the state to its economic senses; another was a fear of excessive taxation; and still another, and perhaps the most important reason, was a growing lack of confidence in the Non-partisan Supreme Court. So eccentric, indeed, have been many of that court's decisions and actions, so insistent has Mr. Justice Robinson been in publishing his views in the newspapers, and so reckless have been the Non-partisan members of the court in their criticism and denunciation of the established law, and in allowing the re-opening of adjudicated cases, that many investors have feared that in North Dakota there was no longer any established law, and that therefore there were no established titles, and no safe securities for their loans.

In an address which was delivered before the Bar Association of the State of South Dakota on August 1, 1918, the author of this book had occasion to say:

"There is nothing more potent than a popular phrase. There is nothing more seductive than claptrap. Nowhere are claptrap and the popular phrase more dangerous than in the domain of the law, and if judicial elections are to be based thereon and to be carried thereby, the cause of government by law is doomed.

"The protest against technicality and a blind following of precedent which, when properly understood, has much of merit in it, may, when distorted and in the hands of the demagogue, lead to universal anarchy; and, incongruous though it may seem, the self-evident truism that all law and all government spring from and are for the people, and that the courts are organized to administer justice, may be the instruments of the greatest harm.

"Crimes, indeed, have been committed not only in the name of liberty but in that of justice. What is justice? What is technicality? Since government is of the people and by the people and the jury represents the sovereign people, should the jury be in all things supreme? These questions must be met and their import understood, for already judicial elections are being based on them, and if the populist-socialistic movement, which is now spreading over the west, spreads to the densely populated centers, as it undoubtedly will, for the farmer has already combined with the labor union, and in the West the cry of government for the farmer and the laboring-man has already moved mountains, they will be everywhere before us.

"Mr. Justice Robinson, of North Dakota, asserts that justice is ever present that it knows no *stare decisis* or fixed rules of law, no precedent, no *res adjudicata*, no established law. Every case, he says, is to be decided on its merits; written opinions are but a waste of printer's ink; syllabi but encumber the record. Whenever, too, he claims, it is made to appear to a beneficent judge (and when the farmers are enthroned only such will be elected) that a mistrial has been had, a new trial may be ordered by the Supreme Court, and this even after the lapse of many years, for, if justice has not been done, why then, justice must prevail! Why follow, he says, the precedents and the rulings of the corrupt judges of the past (and to him all of the judges of the past have been tools of the corporations and fundamentally

intimidated into making the purchases. Now, however, the bonds could not be sold at all, and if the state industries were to be financed, they had to be financed from the deposits in the Bank of North Dakota. But the recently initiated laws had repealed the statute which made it obligatory upon the county treasurers to deposit their funds in the central institution, and as the local demands became greater and greater, the county treasurers soon refused to do so. Soon, indeed, not only the solvency of many of the local banks and of the state industrial institutions became seriously questioned, but even that of the Bank of North Dakota itself.

On December 3, 1920, the reported assets of the Bank

corrupt) when God has given to the present moment unlimited wisdom? If a jury, too, finds negligence when, in fact, none can exist, or returns a verdict for one hundred thousand dollars for a mere bruise in a personal injury suit, why should the courts interfere, for does not the jury represent the people, and is not the jury supreme?

"And how catching, how plausible, is this doctrine! How irresistible, in these days of primary elections, is the candidate for the bench who will subscribe thereto! Already, indeed, such men have carried with them the electorates of sovereign states; buncombe has moved mountains; and buncombe has been irresistible!

"But if no case is ever settled or finally decided, what security is there to life or property? If an action to quiet title to one's farm or one's cottage is brought to-day, but ten years afterwards, it being made to appear (in or off the record) to some beneficent judicial despot that the lawyer who tried the case talked too much or that the case could have been better tried, a new action may be ordered. If, indeed, we are to have a judicial despotism and not a government by law; if, indeed, there is no such thing as an established title and no such thing as a conclusive judgment; if justice, as personally and judicially seen, is the only element; what will become of property rights? Litigation, it is true, and lawyers will flourish, the judicial despot may exude sophistries and the governmental theorists and the *sans cullottes* will applaud, but what of industry, what of property, what of prosperity, what of liberty? If, as Mr. Justice Robinson and the yellow journals and the *friends* of the people say, there are to be no precedents and the decisions of the past are not only to have no binding effect, but even no persuasive force or effect, how shall business be conducted, and how shall lawyers advise their clients? The good lawyer, indeed, will not be he who knows the law, but he who is intimate enough to play chess with the judge, or can do as some are doing in North Dakota even to-day, and that is hurry to the seat of government and ask the judicial despot how he will decide the case in advance of the liti-

of North Dakota were \$18,830,000 and its liabilities \$16,650,000. Of these assets however \$2,599,069 was invested in thirty-year farm loans, \$1,951,450 in the unsold state bonds which had been authorized for the capitalization of the bank, \$648,394.50 in deposits or loans to some thirty small state banks which the recent financial stringency had forced to suspend operations, \$650,000 in loans to the state-owned mill and elevator at Grand Forks which was unable to carry on its building operations on account of its inability to float its bonds, and \$225,000 in loans to the Home Building Association which also was unable to float its securities and has also suspended operations. None of these assets were liquid assets.

gation. In the past we had government and life and liberty and property at the whim and caprice of insane kings, now we are to have a government by equally insane judicial despots. There is to be no law merchant, no established rules of public or private conduct. Whether a lawyer's advice is sound or not depends upon whether or not he is 'in tune with the Infinite' and whether his wireless apparatus can catch the vibrations of the infinite mind and the wisdom of an infallible judge.

"How seductive, how vote-catching, is this all! How seductive, also, is Mr. Justice Robinson's other contention that, since a judge owes his election to the people and ours is a government by the people, it is perfectly proper and fitting for him to take them into his confidence and to discuss pending and prospective cases, yes, even to publish his alleged opinions in advance in the press in relation thereto, even before they had been argued and presented to the court, and by this means and by the force of popular opinion to force the other members of the bench to reach a decision similar to his own!

"How popular, too, and seductive, is the idea that the verdict of a jury should be supreme, for there is 'no doubt that we are the people and our throne is above the king's!' How seductive, but how absurd! If, indeed, every verdict must stand, who would employ labor, who would remain in business, who would even own land? Legal rights and the right to property and to liberty would depend upon popularity and not on law or on justice, and farms would be taken away under executions because a domestic had burned her finger, and men would be hanged because they had no friends. We have struggled against tyranny during the centuries, but the mob and the majority may be as tyrannical as the kings. We have striven to build up a legal system under which even the friendless may be judged by and appeal to a general and to an impartial law. Now popularity must be everything and the majority must prevail."

Something had to be done, and that something by the bankers and business men of North Dakota, as well as by the League managers, for the failure of the Bank of North Dakota, and a condition of general state insolvency would ruin the banker and the business man, as well as the farmer. All classes were interested in preserving the good name and the credit of the state, and all classes felt justified in doing so, for the wheat was in the granaries and the cattle were on the farms, and though the reckless extravagance of the League, and the refusal of the farmers to sell had produced a financial stringency, the wealth of the state was unquestioned, and its resources had really been untouched.

The result was a meeting of the Bankers' Association of North Dakota, followed by a conference with a number of the Non-partisan leaders and the formulation of a plan by which the Bankers' Association agreed to underwrite the state bonds to an amount necessary to complete the elevator and mill at Grand Forks, to operate this elevator and mill, as well as the mill at Drake, to underwrite and aid in selling some \$3,000,000 of farm mortgages, which were held by the Bank of North Dakota, and as far as possible, not only to save the state from financial ruin, but to aid the Non-partisan management in carrying out its industrial experiments. A plan was also evolved for aiding the smaller banks, so that these banks would neither be compelled to suspend nor to enforce immediate payment from their creditors.

One condition, however, was imposed, and that was that the Legislature of 1921 should not embark the state in any new enterprises, and that for the time being, at any rate, no additional state industries should be launched.

At first it appeared that this agreement would be made

and for a time the leaders of the League appeared to favor it. With the meeting of the legislature, however, a change of front came, and the conservative forces were astounded by a recommendation in the Governor's message which advocated the purchase and operation of a state-owned lignite coal mine; and later still by a point-blank refusal to concede to the bankers' demand that the state's industrial activities should be confined to those institutions which already had been provided for.

The change of front was no doubt due to the fact that the League was not only operating in the agricultural state of North Dakota, but in other states where the laboring and mining populations were in the ascendancy, and that the demand for state and nation-owned coal mines had become generally popular. They had, indeed, decided to inaugurate an industrial system in North Dakota which would serve as a model and a vote-catcher in other communities.

Not only was this the case, but on the meeting of the legislature, they discovered that they still controlled the Senate by one vote, and that in the lower house, the Independents had but a small majority of from three to six members. They undoubtedly relied upon the selfishness of cities and localities, and came to believe that by promising new industries to certain localities and districts, they could obtain their support, and thus overcome the small conservative majority.

The result was the following letter:

"Bismarck, North Dakota,

January 8, 1921.

"To the Honorable Committee of Bankers Appointed by the Bankers and Bankers' Association of the State to Confer with the Administration and Members of the

Industrial Commission Relative to the Sale of State Bonds:

"The Industrial Commission has before it for consideration your communication of the 7th inst. reading as follows:

'Bismarck, N. D., Jan. 7, 1921.

To the Honorable, The Industrial Commission, and The Bank of North Dakota:

'The committee of bankers, invited under date of Dec. 30, last, to confer with you with a view of devising some means of selling available securities and bettering the financial situation throughout the state, beg to submit the following:

'Through the numerous conferences of the past month, it would appear that the most immediate and important question is the sale of the several issues of the state bonds now being offered.

'The bankers of the state have earnestly endeavored to assist in the sale of these bonds, but so far without success. The administration has also been unable to sell them.

'The bankers have ascertained the condition under which those bonds could now be sold by them, and with those conditions before them, make the proposition:

'The bankers would undertake to sell—

'\$3,000,000 of farm loan bonds, as well as the balance of the \$10,000,000, as reasonably needed and the market will absorb.

'\$2,000,000 of mill and elevator bonds to complete and put in operation the Grand Forks mill and elevator.

'\$250,000 of home building bonds.

'\$1,000,000 of the Bank of North Dakota bonds.

'To bring this about, it would be necessary on the part of the administration—

'To limit the operation of the Bank of North Dakota to the administration of state, state institutions, and state industry finances, farm loan and farm loan bonds.

'To procure the enactment of a new depository law for counties, townships, school districts, boards of education, village and cities, making every going bank a permanent public depository, and fixing the rate of interest by statute, providing also for publicity as an assurance that deposits would be properly distributed.

'Provide some assurance to the public that the so-called farmers' industrial program will be confined to the Grand Forks mill and elevator, to the Drake mill, and the Bank of North Dakota, and that no state indebtedness other than the above be created during the term of the present administration.

'To confer with attorneys for bond buyers at an early date, and if any new or amendatory legislation, or order of the industrial commission is required, to make the bonds more readily marketable, to see that it is provided.'

"Gentlemen:

"We wish to assure the committee that we appreciate the interest it has taken in this matter. The proposition, however, cannot honorably be considered by the commission for the reason that it is a plain attempt on the part of the financial interests, presumably Wall Street financiers, to dictate the political, financial and industrial policies of the State of North Dakota and requiring a surrender of the sovereign powers of the state to manage its own affairs, and to permit the dictation and interference with the independence and liberty of the free people of a sovereign state. The time has not yet arrived when any group, no matter how powerful financially, can dictate to this state how to manage its own affairs. Every state in the Union is guaranteed a republican form of

government under our constitution. The officers of the state, even though elected by the people, have no authority to surrender its sovereignty. Rights once surrendered are seldom if ever regained. We are satisfied that any group of men that would exact such a surrender and arrogate to themselves the prerogative of making the laws for the people of the state would rule with a tyrannical hand.

"The bonds of North Dakota can and will be sold without a surrender or compromise of this nature. We are satisfied that your committee did not expect the industrial commission to accept the terms and conditions in the above communication, submitted.

"We are positive that in the near future, with your coöperation, these bonds will sell readily. There is no better security anywhere in the United States. Many men of influence and wealth outside of the state are seriously considering the purchase of these bonds just as soon as the present financial stringency passes."

"Yours very sincerely,

THE INDUSTRIAL COMMISSION,

Lynn Frazier

Wm. Lemke

J. N. Hagan"

In the meantime bank failures were of almost daily occurrence; the drafts of the county treasurers on the Bank of North Dakota were being refused payment; and in a number of instances the payment of the salaries of the country school teachers were several months in arrears.

CHAPTER XXVI

THE FAILURE OF FURTHER ATTEMPTS AT A COMPROMISE. THE LEGISLATIVE SESSION OF 1921

THE Legislature convened on January 2nd, 1921. Though the Non-partisans controlled the senate by a few votes an Independent majority in the lower house made it possible for the conservatives to block all further radical legislation, to defeat the administration measure for a state-owned coal mine, to order a legislative investigation of the state's industries and to require the publication of and to scrutinize thoroughly the report of the private accountants who, under the authority of the initiative of 1920, had conducted an examination of the affairs of the Bank of North Dakota.

These examinations and this report disclosed the actual insolvency of the Bank of North Dakota and of the Scandinavian American Bank of Fargo, which had been financed by the central bank and which in turn had been so largely used in financing the Non-partisan movement and the Non-partisan industries. They disclosed the fact that the Bank of North Dakota had been unable to negotiate any of its bonds and had therefore started business without any capital, but yet had loaned \$900,000 to numerous state banks which had since been compelled to close their doors, \$2,800,000 on thirty year farm mortgages, and \$1,135,000 to the various state industries none of which were paying and none of which could for a long time be expected to pay their expenses and much

less any dividends. Of this sum \$700,000 was used in the partial construction of the terminal elevator and mill at Grand Forks.¹ The investigations also disclosed a loan to the Bank of \$1,000,000 from a Chicago trust company which was secured by the bonds of the Bank of North Dakota which hitherto had been unable to find a market. In spite of the undoubted insolvency of the Scandinavian Bank of Fargo in 1920, they showed that the Bank of North Dakota had since redeposited \$44,127 in the local institution. In addition they disclosed the fact that the central bank was every day dishonoring the drafts of the county treasurers, of the local banks and even of the beneficiaries under the hail insurance law, and that in numerous instances its own accounts against the local banks had been garnisheed by its indignant creditors. The investigations also disclosed the complete collapse of the home building enterprise.²

Testimony was also introduced of agreements of the central bank not only to loan its moneys to favored local banks but to take over loans which were made by them to favored persons and institutions. It was also testified that at the beginning of the war and of the activities of the League \$50,000 was procured from pro-German radicals in New York and was used to swell the campaign funds of the new organization.

At this crisis A. C. Townley himself intervened and sought to revive the old plan for a compromise and both the State Bankers' Association and the bankers of St. Paul and Minneapolis appeared for a time to be ready

¹ This loan was secured by the bonds of the terminal elevator but as these bonds could not be negotiated the asset was hardly a bankable asset.

² These disclosures compelled the Non-partisan Bank examiner to himself close the doors of the Scandinavian American Bank of Fargo and the directors of the League Consumer's Store Corporation to ask for a receivership.

to aid in the attempt. William Lemke however was obdurate and still insisted that the state's industrial bonds could be sold and that the initiated measure which had repealed the act that required all the state and county taxes and moneys to be deposited in the Bank of North Dakota could again be submitted to the electorate.

In this opposition Lemke for a time was supported by the Non-partisan caucus, and, though he soon yielded to the better judgment of his chief, the opposition and the delay served once more to stiffen the backs of the conservatives who now demanded that not only should the Bank of North Dakota be shorn of its powers and be turned in a rural credit agency of the state government, and that no more state-owned industries should be promoted, but that the management and control of all of the industries that already had been started should be turned over to the conservative faction.

Of course this latter demand was vigorously refused, and soon afterwards the bankers withdrew their offers of aid giving as an excuse the unsettled condition of North Dakota politics, the fear of the eastern investors, whom naturally they would have to call to their aid, and the statement that the North Dakota securities had been peddled so much in the eastern markets and by so many irresponsible persons that all faith in them had been destroyed.

The aid of the bankers being denied, strenuous efforts were then made by the Non-partisans to negotiate their bonds on their own account and an attempt was made to induce the American Federation of Labor to invest therein. All that could be obtained however were resolutions of sympathy. Intimidation was next resorted to. Not only did the Bank of North Dakota announce that it was open for general deposits and would henceforth engage

in the general banking business but the Non-partisan Deputy Bank Examiner notified all of the state banks that their affairs would be carefully scrutinized and their doors would be closed if at the end of thirty days it was discovered that their reserves were below the statutory requirement. This notice however could only be a threat and rather than tend to induce the bankers to aid in the sale of the bonds could only tend to strengthen the opposition. The general fall in farm prices and the consequent unwillingness of the farmers to market their products had seriously affected North Dakota as well as the other agricultural states and, in addition and in many of the western and strongly Non-partisan counties, a series of crop failures had stretched credit to its extreme limit. The banks were doing all that they could do, and were carrying not only the farmers but the local merchants, who in turn were carrying their farmer customers. Any harsh and unreasonable action on the part of the Bank Examiner could only result in forcing the banks to collect their accounts and to bring actions on their notes and mortgages. If they pressed their merchant customers these customers would in turn have to sue the farmers. The threat could hardly be carried out and hardly tended to popularize the Non-partisan management with its farmer constituency. It served therefore only to further incense the opposition and was met by a threat and a formulated plan for a recall of the Non-partisan officials and the initiation of two measures one of which would change the personnel of the Industrial Commission and place the control of all of the state's industries out of the hands of the administration, and the other of which would transform the Bank of North Dakota into a merely rural-credit agency of the state government.

To these threats the Non-partisans again countered and threatened a recall of all of the conservative public officers and thus to turn the conservatives' recall into a general election. They also renewed their efforts for the sale of their bonds and made personal appeals to the labor unions and to all of their friends and supporters both to purchase the state's bonds in small denominations and to deposit their moneys in the Bank of North Dakota. As a means to this end and as a punishment to their banker antagonists they also opened the Bank of North Dakota as a general bank of deposit and started a movement for the establishment of branch banks or local agencies in all of the principal towns of the state.

The controlling element in the whole affair was the rapidly growing conviction of the Independents that the Non-partisan finances were in a hopeless state of collapse, that if the Non-partisans were only left to their own resources and given rope enough they would hang themselves, and that no further compromise was necessary. The conservatives became more and more willing to face a present financial crisis rather than any longer to tolerate the scheme of state-ownership, and naturally the most pronounced in this attitude were the politicians who hoped that the collapse would lead to their own return to political power.

In a preceding chapter we told the story of the Insurgent or Progressive Republican revolution of 1906 and of the repudiation of the so-called Alexander McKenzie machine. During the intervening years however Alexander McKenzie has been neither dead nor asleep and his close connection with Senator Porter J. McCumber, as well as his own national prestige, has at all times made it possible for him to control the Republican State Central Committee and in a large measure to dic-

tate the federal patronage. One of the most interesting features of the Non-partisan movement, indeed, has been the attitude of the McKenzie-McCumber forces, and it is by no means inconceivable that Alexander McKenzie may again sit in the throne-room of North Dakota. It is by no means impossible that the old or so-called McKenzie or stand-pat Republicans may reorganize the Republican party of North Dakota and unite with the Non-partisans against the Independents or what is now termed the Independent Voters' League. There was just such a coalition in the campaigns of 1916 when an independent, Usher L. Burdick, was opposed in the primaries both by the Non-partisan Frazier, and the Stalwart Republican Colonel Fraine, and when in both the primaries and the fall elections, though the state gave a handsome majority to Woodrow Wilson, it at the same time elected the Non-partisan Frazier as its governor and the Stalwart Republican McCumber to the United States Senate. There can also be no doubt that the defeat of Senator Gronna in 1920 was largely due to the same influences.³

*Perhaps nothing more conclusively shows what may be termed the return of McKenzie than an incident which occurred during the legislative session of 1921. Edward Hughes owns the Bismarck electric lighting system and Alexander McCumber owns the waterworks system. Protests had been made against the charges of both institutions. Hughes at one time broke away from the McKenzie forces and was elected by the insurgents to a seat in the state senate. In the legislative session of 1921 a bill was introduced which sought to confer upon the city of Bismarck the power to condemn the waterworks system. The bill passed the lower house but was defeated in the Senate by a coalition of Stalwart and Non-partisan votes. In its place another bill was introduced which gave to the State Industrial Board the power to extend the electric lighting system of the state capitol so that it could furnish electricity not merely to the capitol building as it had formerly done but to the whole of the city of Bismarck. This bill was carried through both houses by a coalition of the Stalwart and the Non-Partisan forces. It was the only measure of state-ownership which was carried at the session and its purpose was to punish Hughes and as far as possible drive him out of business.

Much as McKenzie and McCumber dislike the economic policies of the League, much more do they personally dislike the leaders of the so-called Independent Voter's movement, the majority of whom originally were insurgents and took a prominent part in the revolution of 1906. The leaders of this movement have never been forgiven nor have the politicians been forgiven who in 1916 joined with Governor Louis B. Hanna in his attempt to wrest the United States senatorship from Senator McCumber.

But even if this coalition is made we can expect but little extension of state ownership or of state socialism. McCumber is at heart a conservative of the conservatives and what is true of McCumber is true of McKenzie and of the whole stalwart following. They have aided the Non-partisans, not because they hate the Non-partisans and the Socialists the less but because they hate their former Progressive Republican opponents still more.

The people of the state are rapidly coming to their senses and ultimately the whole controversy will be settled along natural lines. There can be no doubt of the right of the farmer to organize his buying and his selling exchanges and to seek to lessen the profits of the middleman. There can be no doubt that our boards of trade are now becoming great national and even international exchanges and, if seats on the floors of these exchanges are not freely given to the farmers' coöperative agencies, sooner or later they will everywhere be granted by legislative action.⁴ There can be no doubt that the validity

⁴ In the Legislative Session of 1921 the Farmers' program as set forth by the Minnesota Farm Bureau Federation and the desire of the Republican party to coöperate therewith brought the following results:

Rural credits systems financed by the state proposed in a constitutional amendment which voters will pass on in 1922.

Speculative trading in grain futures curbed by an act declaring deals illegal which do not include a legitimate hedging features.

of these statutes will be sustained by the American courts.

It is doubtful if the profits of the middleman are proportionately larger in the agricultural than in the other industries. In all lines of production however there is a gross and seemingly unnecessary disparity between the original and the final cost and there can be no doubt that in the future much care and attention and legislation will be directed towards bringing the producer and the consumer closer together and in cutting out the excessive costs of the middleman. Already the parcels' post and the farmers' coöperative agencies and exchanges have done much in this direction although it is doubtful whether the consumer has always profited thereby.

All this, however, has been and is to-day being accomplished without the aid of the Non-partisan League and coöperative buying and selling is as far advanced in states where the League has no foot-hold as it is in North Dakota itself.

There is at any rate nothing which is radically wrong with North Dakota. Its conservative citizens have been wonderfully loyal and the rank and file of the Non-partisan party have merely been misled. The state is un-

Grain exchanges declared open markets and required to admit coöperative associations to membership.

Law as to coöperative marketing associations amended to help them federate and form central selling associations.

Department of Agriculture given wider powers and various related activities transferred to its direction.

Auditing books of coöperative associations by the state authorized.

Cold-storage law strengthened, and labels required on cold storage products exposed for sale.

Joint resolution passed to re-establish Minnesota grain grades Aug. 1.

Legislative committee to visit Washington and urge modification of federal grain grades; resolution passed by senate and soon to be approved by the house.

Completion of state testing mill at Minneapolis to be authorized, and control of mill transferred from Railroad and Warehouse Commission to Commissioner of Agriculture.

usually rich in agricultural resources and in agricultural possibilities and can meet all of its obligations. On account of a wonderful management, which speaks volumes for its business men, there have been proportionately fewer business failures in North Dakota during the last year than in perhaps any other agricultural state of the American union. In North Dakota there has been no speculation and no overvaluation of the land, and for that reason it will recover from the present financial stringency more rapidly than most of its sister states. In Iowa and in Illinois, for instance, land which cannot possibly have a producing value of over three hundred dollars an acre has been sold for four and five hundred dollars an acre. Land in short has been watered as well as corporate stock, and it is perfectly clear that before that land can be made to pay dividends and before normal conditions can again prevail and the farmer can again compete in the world's market that water must be squeezed out. In North Dakota, on the other hand, there is no land, and some of it is as rich as any in the American Union, that has been sold for more than two hundred dollars and vast areas have been sold and can still be obtained for less than fifty dollars. At these prices and in almost any state of the market this land can be made to pay dividends. North Dakota has merely been upon a debauch. A state which with only 650,000 people can annually produce over 50,000,000 bushels of the choicest wheat, to say nothing of its other agricultural products, and wheat is after all but a small portion of the state's production, cannot well become insolvent.

Banks it is true have closed their doors but in no larger numbers than in the other agricultural states of the Union. And though they have been compelled to close

their doors it has merely been because the farmers have chosen to withhold their grain from the market. The wheat is there and ultimately both the farmers and the banks will pay their debts. They perhaps will not make as much profit as in former years but they will not go to the poorhouse. Much as we may bicker about the matter, the bonds of North Dakota are as good as gold, and, even if the state industries fail, the loss will only involve a few millions of dollars, not more in fact than the cost of five or six state elections. Above all the loyal people of North Dakota have shown that they cannot be stampeded. They have faced the nationally entrenched forces of socialism and have met the most dangerous of all enemies, class-prejudice and misinformation. They have stood firm for the American law, the American comradeship and the American freedom, and they have triumphed.⁵

⁵ Since the above chapter was written the Independents have decided to limit the recall to the Governor, the Attorney-General and the Secretary of Agriculture. Much doubt has been expressed as to the political wisdom of any recall at all and whether it would not have been better to have allowed the Non-partisans to attempt to extricate themselves from their own financial dilemmas and to incur the discredit which a failure would entail. Business motives however have prevailed and the political argument has been brushed aside by the contention that a complete control of the state government by the Independents is absolutely necessary in order to reestablish the credit of the state and to make possible the obtaining of the outside financial assistance which is so sorely needed. A measure also has been initiated for the issuance of two million dollars of state bonds which shall be a direct state liability and shall be used in completing the construction of the elevator and mill at Grand Forks and in meeting the obligations of the Bank of North Dakota. There is, however, no intention that in the future that bank shall be anything more than a rural-credit agency.

CHAPTER XXVII

THE AFTERMATH—THE COÖPERATIVE MOVEMENT

BUT what of the aftermath? There is no doubt that Townleyism is on the wane. But what of the future?

Except in so far as it advocates state-owned warehouses and elevators, the industrial plan of the Non-partisan League, as it was originally proposed, was no different from that of the federated farmers' bureaus of to-day, nor that of the National Farmers' Educational and Coöperative Union, which for many years had a strong following in the southern states. Being sectional in its membership, though national in its name, the latter organization was able to urge a sectional control of cotton, which was entirely a southern product. To-day the farmers of North Dakota are urging a sectional control of the hard wheat of the North, which is so essential to the manufacture of the higher grade of flour, and the farm bureaus, and grain and stock producers' associations of the country are everywhere urging the control of the whole food supply.

A meeting of the National Farmers' Educational and Coöperative Union was held at the city of New Orleans in November, 1909. At that meeting night riding was denounced, but a complete monopoly and control of the cotton crop was strenuously advocated. The plan, which was partially carried out, was to build large warehouses in all of the cotton states; to have the cotton stored therein, and storage certificates issued thereon,

and then to have these certificates negotiated by the various southern banks. This, it was hoped, would enable cotton planters to hold their products until they could obtain such prices as they desired; and as long as the banks continued to finance them, to control the market completely. This also has been the plan of the Kentucky tobacco raisers.

The plan is not different from the North Dakota scheme, though the latter scheme is bolder and more comprehensive, involving, as it does, a state-owned bank in which all of the state funds and taxes shall be deposited, and which is intended to help finance the enterprise. The reason for the southern pool, as given by Mr. C. S. Barrett, the president of the Coöperative Union, is exactly the reason that is given by the Non-partisan League of North Dakota. Mr. Barrett, among other things said:

"The Farmers' Union is the greatest industrial army in the South to-day. With the proper zeal and loyalty we can, in our meetings of to-day and to-morrow, rear a bulwark of cotton around the South, and from behind its walls crush our enemies decisively and finally.

"I regard the great interest taken in this convention by the business men of New Orleans as prophetic of a new era in southern development. It is a recognition by the banker, the manufacturers and the merchant that the farmer furnishes the basis of the wealth of this section, and that henceforth he must and will be reckoned with in the great and small projects looking to its welfare.

"I have said that it is to the mutual advantage of all southerners to secure a proper price for cotton. We are not now securing that price. If this conference does not compel improvement, the burden will be visited before the first of next September on you, your wives and your children.

"There are several reasons contributory to the present unfair price for cotton, but the main one is very ancient and familiar—the plots and schemes of the market manipulators. Beginning with last spring and continuing to the present day, bear gamblers in this country and Europe circulated circumstantial reports to the effect that the south would produce a record-breaking crop of cotton this fall. These reports never have rested and do not now rest upon the slightest foundation, save those of wilful and malicious misrepresentation.

"That has not prevented them from doing their deadly work. The impression has gained ground with buyers in America and Europe that this season would show an abnormal yield. They have refused to believe the truth of the situation, when told by our officials, and in some instances by their own investigators. I do not hesitate to say that some of the spinners are our friends, and will deal fairly with us. But the majority are ready to plot with the gamblers to beat down the figure they pay for cotton, though they are not kind enough to lower the price at which they sell you cloth and other finished products made from the staple grown in your own fields.

"Having hammered down the price of cotton at the opening of the selling season, our friends, the gamblers and manipulators, see no reason why they should let it rise, even when it is shown to them beyond question that reports of a large crop are utterly absurd. And they will not recede from this position unless you, the men who own the cotton, whose labor has made their schemes possible, with the aid of the business interests of this section, force them to do so. It is within the power of the Farmers' Union, with its 2,000,000 members throughout the South, to achieve this result.

"If we succeed now in restoring the price of cotton

to the figures that ranged last year, we will be richer by \$150,000,000.

“The meaning of these figures, in calm and everyday language, is that you will have more money to spend on the improvement of your farms, for the payment of your debts, for food, clothing and luxuries for your families and the education of your children. Their further meaning is that each community in the South, large and small, will receive its share of this enormous sum total, and that the result will be seen in better wages, brisker business, more trade for the merchant and the development of manufacturing.

“Getting down to the very gist of the thing, the question is whether you are going to pocket \$150,000,000 or whether the manipulator shall pocket it.”

This scheme was only partially carried out. It was followed by an attempt by statutes to reduce the production of cotton, which failed only because each southern state was jealous of the others and an attempt to induce all to adopt similar legislation failed. Cotton however has been stored in large quantities and the banks as far as possible have loaned money on the certificates. To-day the American Cotton Association with headquarters at Atlanta, Georgia, is attempting to formulate some new scheme which shall insure to the South control of its peculiar product.

This association has been particularly active in its attempts to pool the cotton crop and has even gone so far as to try to induce the Federal Reserve Bank to finance its schemes, though on September 21st, 1920, the attempt was denounced by Secretary of the Treasury D. F. Houston. If successful the plan would carry the North Dakota idea one step further.

At a meeting of the National Board of Farmers' Or-

ganizations which was held at Columbus, Ohio, in September, 1919, the following program was seriously considered:

"First—A national marketing company organized on a non-stock, non-profit fixing basis so as not to conflict with the provisions of the Sherman anti-trust law. This will be formed after the nine principal wheat growing states have each been organized with at least 51 per cent. of the growers signed up under a five-year contract to deliver all of their wheat.

"Second—In case of overproduction in any year, it will be necessary to store the surplus and perhaps cut the acreage the following year.

"Third—The interests of the public are to be protected by including on the board of directors with full voting powers, representatives of the departments of agriculture and the federal trade commission."

In speaking of this program Charles A. Lyman, secretary of the National Board of Farm Organizations, said:

"There has been injected into the proposed coöperative movement to bring the producer and consumer closer together, a question so controversial and fraught with so many possibilities that farmers must decide at once to face the issue.

"Assuming that it is right for the farmers to form themselves into large monopolistic price fixing combinations, and assuming that the wheat growers will be willing to form their five-year pooling arrangements, that the business can be properly financed, etc., let us determine the probable attitude that the consumers of the country will take. Can we make them believe that a price-fixing monopoly of wheat by farmers is desirable? That is the fly in the ointment."

CHAPTER XXVIII

COÖPERATION AND STATE AND NATIONAL AID

EVEN though the Non-partisan League may lose its power, we shall still have the problem, and the farmers will still have their opportunities for the creation of coöperative monopolies.

And it was this possibility, and this probability, and a promise of Republican aid in its fulfillment that was one of the principal reasons for the defeat in Minnesota of the Non-partisan party, and perhaps for its reverses throughout the whole country.

In an address which was delivered during the recent campaign at the Minnesota State Fair, Senator (now President) Harding said:

"Government paternalism, whether applied to agriculture or to any other of our great national industries, would stifle ambition, impair efficiency, lessen production and make us a nation of dependent incompetents. The farmer requires no special favors at the hands of the government. All he needs is a fair chance and such just consideration for agriculture as we ought to give to a basic industry and ever seek to promote the common good."

He then spoke approvingly of coöperation, and of the fruit growers' associations and selling agencies of the Pacific Coast, and then said:

"Some of the things which ought to be done, if we are to put our agriculture on a sound foundation, have

been mentioned in the national platform of the party to whose pledges I am committed.

"First, the need of farm representation in larger governmental affairs is recognized. During the past seven years the right of agriculture to a voice in government administration has been practically ignored, and, at times, the farmer has suffered grievously as a result. The farmer has a vital interest in our trade relations with other countries, in the administration of our financial policies, and in many of the larger activities of the government. His interests must be safeguarded by men who understand his needs, he must be actually and practically represented.

"Second, the right of farmers to form coöperative associations for the marketing of their products must be granted. The concert of agriculture is as essential to farms as a similar concert of action is to factories. A prosperous agriculture demands not only efficiency in production, but efficiency in marketing. Through coöperative associations the route between the producer and the consumer can and must be shortened. Wasteful effort can and must be avoided. Unnecessary expense can and must be eliminated. It is to the advantage of all of our people that every possible improvement be made in our methods of getting the products of our farms into the hands of the people who consume them. The legitimate functions of the middleman may continue to be performed, by private enterprise, under conditions where the middleman is necessary and gives his skill to our joint welfare. The parasite in distribution who preys on both producer and consumer must no longer sap the vitality of this fundamental life.

"Fourth, we promise to put an end to unnecessary price-fixing of farm products and to ill-considered efforts

arbitrarily to reduce farm product prices. In time of national crisis, when there is a known scarcity of any necessary product, price control for the purpose of making a fair distribution of the stores on hand may be both necessary and wise. But we know that there can be no repeal of natural laws—the eternal fundamentals. The history of the last three thousand years records the folly of such efforts. If the price of any farm product, for example, is arbitrarily fixed at a point which does not cover the cost of production, the farmer is compelled to reduce the production of that particular crop. This results in a shortage which in turn brings about higher prices than before, and thus intensifies the danger from which it was sought to escape. In times past many nations have tried to hold down living costs by arbitrarily fixing prices of farm products. All such efforts have failed, and have usually brought national disaster.

“Government drives against food prices such as we have experienced during the past two years are equally vain and useless. The ostensible purpose of such drives is to reduce the price the consumer pays for food. The actual result is unjustly to depress for a time the prices the farmer receives for his grains and live stock, but with no appreciable reductions in the price the consumer pays. Such drives simply give the speculator and the profiteer additional opportunities to add to their exactions, while they add to the uncertainty and discouragement under which the farmer is laboring during this period of readjustment.

“Fifth, we favor the administration of the farm loan act so as to help men who farm to secure farms of their own, and to give to them long-time credits needed to practice the best methods of diversified farming.

“We also favor the authorization of associations to

provide the necessary machinery to furnish personal credit to the man, whether land owner or tenant, who is hampered for lack of working capital. The highest type of rural civilization is that in which the land is farmed by the men who own it. Unfortunately, as land increases in value, tenancy also increases.

"This has been true throughout history. At the present time probably one-half of the high-priced land in the corn belt states is farmed by men, who, because of lack of capital, find it necessary to rent. This increase in tenancy brings with it evils which are a real menace to national welfare. The land owner, especially if he be a speculator who is holding for a profit through an advance in value, is concerned chiefly in securing the highest possible rent. The tenant who lacks sufficient working capital, and who too often is working under a short time lease, is forced to farm the land to the limit and rob it of its fertility in order to pay the rent. Thus we have a sort of conspiracy between the landlord and tenant to rob the soil upon which our national well-being and indeed our very existence depend. Amid such conditions, we have inefficient schools, broken-down churches, and a sadly-limited social life. We should therefore, concern ourselves not only in helping men to secure farms of their own, and in helping the tenant secure the working capital he needs to carry on the best methods of diversified farming, but we should work out a system of land leasing which, while doing full justice to both landlord and tenant, will at the same time conserve the fertility of the soil.

"Sixth, we do not longer recognize the right of speculative profit in the operation of our transportation systems, but we are pledged to restore them to the highest state of efficiency as quickly as possible. Agriculture has

suffered more severely than any other industry through the inefficient railroad service of the last two years. Many farmers have incurred disastrous losses through inability to market their grain and live stock. Such a condition must not be permitted to continue. We must bring about conditions which will give us prompt service at the lowest possible rates.

"Seventh, we are pledged to the revision of the tariff as soon as conditions shall make it necessary for the preservation of the home market for American labor, American agriculture and American industry. For a permanent good fortune all must have a common interest. If we are to build up a self-sustaining agriculture here at home, the farmer must be protected from unfair competition from those countries where agriculture is still being exploited and where the standards of living on the farm are much lower than here. We have asked for higher American standards, let us maintain them.

"The farmers of the corn belt, for example, are already threatened with unfair competition from the Argentine, whose rich soil is being exploited in heedless fashion, and where the renters who farm it are living under conditions more miserable than the poorest tenants in the United States. In times past, duties on agricultural products were largely in the nature of paper tariffs, for we were a great surplus-producing nation. Now that consumption at home is so nearly reaching normal production, the American farmer has a right to insist that in our trade relations with other countries he shall have the same consideration that is accorded to other industries and we mean to protect them all.

"So long as America can produce the foods we need, I am in favor of buying from America first. It is this very preference which impels development and improve-

ment. Whenever America can manufacture to meet American needs—and there is almost no limit to our genius and resources—I favor producing in America first. I commend American preference to American productive activities, because material good fortune is essential to our higher attainment, and linked indissolubly are farm and factory in the great economic fabric of American life.

“Under a sound system of agriculture, fostered and safeguarded by wise and fair administration of state and federal government, the farmers of the United States can feed our people for many centuries—perhaps indefinitely. But we must understand conditions, and make a new appraisal of relationship, and square our actions to the great, underlying foundation of all human endeavor. Farming is not an auxiliary, it is the main plant, and geared with it, inseparably, is every wheel of transportation and industry. America could not go on with a dissatisfied farming people, and no nation is secure where land hunger abides. We need fewer land hogs, who menace our future, and more fat hogs for ham and bacon. We need less beguilement in cultivating a quadrennial crop of votes and more consideration for farming as our basic industry. We need less appeal to class consciousness, and more resolute intelligence in promptly solving our problems. We need rest and recuperation for a soil which has been worked out in agitation, and more and better harvests in the inviting fields of mutual understanding. We need less of grief about the ills which we may charge to the neglect of our own citizenship, and more confidence in just government, along with determination to make and hold it just.

“We need to contemplate the miracle of America in that understanding which enables us to appreciate that which made us what we are, and then resolve to cling

fast to all that is good and go confidently on to great things."

This address was a few weeks later followed by a more explicit statement by Mr. J. A. O. Preus, the Republican and anti-Non-partisan candidate for the office of governor of Minnesota. He stated that in the United States as a whole 74 per cent. of the population was in the cities as against 26 per cent. in the country,¹ and that even in Minnesota with its 51,000,000 odd acres of land, practically all of which were capable of cultivation, 68 per cent. of the people were to be found in the cities as against 32 per cent. upon the farms, and after suggesting that if we had state ownership the majority would control, and the policies of the farmers and their industrial prosperity would be controlled by the residents of the cities and not by themselves, he then said, among other things:

"One plan advocated is that of having state-owned elevators, packing houses, factories, mills, terminals and so forth, operated by the state in competition with the privately owned elevators, warehouses and so forth.

"The other plan proposed is that of having more co-operative elevators added to the 352 which we now have throughout the state and through which approximately 40 per cent. of our grain is marketed, as well as having other warehouses to take care of all other products of the farms of the State of Minnesota, to be owned and controlled exclusively by the farmers and operated on a co-operative plan.

"Would it not be well for the farmers to consider which plan will be most to their interest?

"One proposes bonding the state and taxing all the

¹ This was an error. The real ratio is 52 per cent in the cities and 48 per cent in the country.

people in the state for these purposes and then having state-owned plants to be administered by all the people of the state, 68 per cent. of whom live in the cities and villages and 32 per cent. on the farms.

"If the state should engage in these various enterprises the state would have thousands of employes subject to political appointment or under a civil service law, which would get about the same results and efficiency out of the employes which the federal government receives from its various departments.

"Would it not be better for the farmers to consider the coöperative plan?

"Coöperation is the opposite of state ownership. Co-operation develops the individual farmer's authority over his own business, inasmuch as he remains in charge of his business, and when it becomes too big for him to handle as an individual he and other farmers handle their business collectively.

"One farmer alone cannot have the advantages in shipping and selling his produce which he can secure by combining the efforts of a large number of farmers.

"State ownership would take the authority away from the individual and place it in the hands of the state as a whole. The farmers' business would then become political.

"Here in Minnesota we have at this time what is known as the Farmers' Terminal Packing Company, located at Newport, just across the river from South St. Paul.

"The packing company is a stock company embracing 14,000 farmers, all of whom are stockholders. The farmers have the entire voice in the running of this corporation. They are incorporated under the coöperative law of the state of Minnesota, known as Chapter 382,

Laws 1919. Every farmer has one vote, regardless of the amount of stock he holds.

"This packing company plant has disclosed that there are needless middlemen between the farmers and consumers, for the stock sold by the farmers and butchered at the packing plant places the farmers, through its agency, the packing plant, directly in contact with the retailer or consumer himself.

"Another example of successful coöperation can be found in the case of the citrus growers in California. Every person is familiar with the 'Sunkist' lemons and oranges. These fruits have been marketed by the farmers of California through their own marketing agency, and are sold directly to your storekeeper from the farmers' coöperative exchange, belonging to and operated by the fruit growers of California.

"The farmer has given up his right to individually sell his fruit to whomsoever he wishes, and has combined with his farmer associates to jointly sell his produce with them. In 1919 the citrus fruit growers of California did a business of nearly \$120,000,000.

"Our farmers of Minnesota have been awakened to the benefits which can be derived through coöperative exchanges. We have to-day approximately 3,300 coöperative organizations.

"Among these might be mentioned the farmers' mutual fire insurance companies. In 1879 the first mutual fire insurance company was organized for the purpose of insuring farm buildings only. Since that time down to the present there have been organized 161 companies. They have sold insurance to our farmers at an average of 15 cents per hundred. The lowest annual rate in stock companies is 75 cents per annum, and most farm insurance is written on an annual business. More business has

been written at a rate of \$1.50 and \$2 per hundred, and it is safe to say that the coöperative organizations have saved the farmers from \$20,000,000 to \$30,000,000.

"The coöperative creameries, of which there are a total number of 630 in the state, disclose daily to the farmers what a coöperative institution can do.

"The prices received at the creamery by the farmer for his raw product, which is made into butter, is not to exceed 5 per cent. less than the price paid by the consumer in the cities. The difference is contained in the actual cost of manufacture and transportation.

"Under the agricultural department established at the last session of our Legislature, coöperative enterprises have been greatly encouraged.

"Just recently a potato exchange, embracing about ninety potato associations, was established, and the purpose of the Minnesota Potato Exchange is to handle the products of its members at the actual cost of selling. Members of the Minnesota Potato Exchange are societies of farmers, each society aggregating generally about seventy-five members, who either build their own warehouses or lease buildings for such purposes.

"These societies having now been combined in the Minnesota Potato Exchange, will be in a position, as the agency of the farmers, to market the potato crops of Minnesota farms anywhere throughout the world.

"One of the leading questions, therefore, before the farmer of Minnesota to-day is whether he will engage in coöperation with other farmers of the state, or elsewhere if he wishes, for the purpose of marketing his products and purchasing his own supplies or whether he will have the state do these things for him.

"The 'United Grain Growers of Canada' now has a membership of 35,000 farmers. It is a stock company.

The stockholders are all farmers. The capital stock was until recently \$5,000,000 and a member can hold 100 shares of the value of \$25 each, but he is entitled to only one vote, thereby recognizing the mutual or coöperative idea, which is not based on the amount of stock which any one person holds. No one but a farmer can purchase stock.

"The company has an elevator at Fort William, which is leased to it by the Canadian Pacific Railway, and which has a capacity of 2,500,000 bushels. It has another elevator at Port Arthur with a capacity of 3,500,000 bushels. These elevators have both made money for the farmer stockholders by way of setting aside a surplus for developing the business or declaring dividends. The record of these two elevators is very much better than that of the government owned elevator.

"The 'United Grain Growers, Limited' has a marketing service covering both country and terminal elevators for grain and also engages in export business. It has a separate live stock business and sells its stock at regular markets and supplies stockers and feeders for farmers.

"It also has a coöperative machinery business and handles farm implements and other supplies.

"It buys and sells farm lands for its members as well as others and operates this business in conjunction with an insurance department. It also has some standing timber and operates a mill thereon.

"In Minnesota such an association could be organized under Chapter 427, Laws 1919, known as the Coöperative Organization Act. Some slight changes would be necessary but if such an association were organized with its stock company for marketing and purchasing farm products and supplies, it could purchase a membership in the

Chamber of Commerce of Minneapolis and Duluth on behalf of the farmers of Minnesota.

"This company, owned by the farmers, controlled by the farmers, and having equal rights of purchasing and selling in the Chamber of Commerce, could engage on a competitive basis with the middlemen now found between the producer and the consumer of farm products in any business in which the members of the Chamber of Commerce now engage.

"If the farmer should view this plan with skepticism and doubt, they may with all propriety do their own buying and selling without the aid of the Chamber of Commerce provided they are sufficiently large and have an amount of business sufficient to make it practicable. The Farmers' Equity Exchange is following the latter plan.

"In connection with coöperation in Canada let it not escape your attention that originally the farmers in Canada wanted terminal elevators to be owned and operated by the government.

"They found after experience that it was a failure and turned to coöperation as the solution of their problems.

"Our farmers, I believe, are determined in securing other marketing conditions than those which now prevail.

"They must, I believe, choose between the state-owned plan where all the people of Minnesota, 68 per cent of whom are in cities and only 32 per cent in the country, will control, or the coöperative plan of ownership and operation by the farmers and farmers alone.

"Just recently, Senator Harding, the splendid Republican nominee for President of the United States, stated:

'I believe that the American people, not only in behalf of the farmer but in behalf of their own welfare and the pocket books of the consumers of America will encourage, make lawful and stimulate coöperative buying, coöpera-

tive distribution and coöperative selling of farm products.

'I think the farmers of Minnesota believe in the coöperative method which has already done so much for them contrasted with the state-owned methods, which, if once applied to farm products, will steadily grow and expand to embrace the complete program of what is known as Socialism, will confiscate all property which is held for gain whether it be stocks, bonds, mines, or farms, that they may be operated for the benefit of all our people and ultimately destroy the independence, liberty and private property of the greatest rural civilization known in the world's history, that which is found in the United States to-day.' " 2

² On this subject the St. Paul *Dispatch* for October 2, 1920, said:

COÖPERATION VS. SOCIALISM

"The marketing problem of farm produce which discloses a wide disparity between the price received by the farmer and that paid by the consumer was the text of the speech at Redwood Falls with which J. A. O. Preus opened his campaign for governor. Speaking to an agricultural community he made farmer welfare and prosperity his theme and put up to the tiller of the soil the choice which confronts him—coöperation or state socialism.

"The problem is to eliminate the natural profit or the devastating profiteering, as the case may be, of unnecessary middlemen. Two remedies are offered, one the state socialism advocated by Townleyism and the other the coöperative systems, in comparative infancy in Minnesota but carried to marked success in Canada for instance. Which is better for the farmer? Mr. Preus answered the question clearly and with illumination.

"The socialistic plan provides for bonding the state and taxing all of the people for state-owned elevators, mills, packing plants, etc., and then having all of these state-owned plants administered by all of the people of the state, of whom 68 per cent live in the cities and 32 per cent on the farm. It means plunging farmers' affairs into the politics of the cities. It means managing farmers' business by politicians in politics, with the inefficiency, incompetency and waste always found in political management. It means taking away from the farmer every vestige of individuality and sinking it in the state as a whole—submerging it in politics.

"Contrasted with this picture of expensive and inefficient political control is the showing of successful and practical results of coöperative marketing. Mr. Preus did not deal in theoretical abstractions, but cited numerous concrete instances, from mutual insurance in Minnesota

Here we have the new program, and the program which the various farmers' bureaus of the country are seeking now to place in operation; and which must be seriously considered even though the Non-partisan League may become a thing of the past. In its essentials it is no different from that of the League. According to his address Senator Harding did not believe in paternalism. He did not favor state or national ownership. He did favor experimentation. He stated that, "The right of the farmers to form coöperative associations for the marketing of their products must be granted." He seemed to promise a high protective tariff; he seemed to promise the aid of the Federal Reserve Bank. It was largely because of these promises or assumed promises that the farmers of the West forsook the Non-partisan League and rallied to his standard.

To-day everywhere we have meetings of farm bureaus which are considering the same measures and which are pointing to the success of the Fruit Growers' Association of the Pacific Coast, and are seeking to emulate their example.³

to the operations of grain growers in Canada and the citrus organization of California. It will be worth the while of the interested farmer to take these several examples of successful coöperation and make a study of them, though doubtless all of them are familiar to the agriculturist who has given thoughtful attention to the marketing problem.

"Farmers are dissatisfied with the marketing conditions of the day and determined to change them. Mr. Preus points out with unmistakable clearness the lines of change that are available. Farmers must choose between the two principles involved—the farmer running his own business through coöperation or turning it over to state socialism, which is not more nor less than handing it over to state politics of which the cities control 68 per cent and the farms 32 per cent."

³On this subject, the *Jamestown Alert* said:

"The citrus fruit growers of California, according to information compiled by their agency, have again been successful in marketing their fruits and perishable food products at a lowest cost. This cost for the entire output was the lowest marketing cost of any perishable food product in America. Transacting a volume of business aggregating over \$81,000,000 the handling cost was one and one-third per cent.

The immediate purpose, or the alleged purpose, of all of these movements has been the destruction of the middle-man and the prevention of the glutting of the markets immediately after the harvests, when most of the producers desire or the necessities of most of them require them to realize upon their crops and other products. This desire and need, however, should not justify a more or less complete monopoly and an unreasonably increased price to the consumer.

The contest of the future will be over the question of government aid and the use that should be made of the Federal Reserve Banks. The question will also have to be met, whether agriculture differs from other industries, and whether, though generally prohibiting pools and monopolies, we should, in times of peace as well as in times of war, make an exception in favor of the producers of agricultural products. This exception was made in the so-called Lever Act. Should the privilege be continued?

The production was oranges, grape fruit and lemons. The fruit growers' society handled over 73 per cent of the entire citrus output of California last year, and the returns to the members for fruit shipped by the exchange will be approximately \$60,000,000.

"Owing to the business-like organization and the coöperation system the expense of marketing the fruit was less than it was ten years ago. Increased freight rates have not added to the retail cost of the fruit. The prices received are determined by supply and demand. The producer of perishable fruit must sell at what the public is willing to pay. There are 10,500 members of the fruit growers' exchange who elect the officers and have a direct voice in the coöperative non-profitting system. Packing house, materials and fruits ranch supplies are purchased at cost.

"If the fruit growers of California can coöperate and sell their products which are perishable at a satisfactory profit, through a marketing system of their own, is there any good reason why the spring wheat growers of the Northwest cannot do the same thing with a product that is not perishable, and has a world-wide demand at all times? Farmers of North Dakota can do with their wheat crop what the fruit growers of California have done with their product, but not through any schemes of a political nature, which include enormous overhead costs and a fanciful system of financing the transaction on public funds, gathered together in a bank, managed by politicians on large salaries."

In speaking of the possible trade controversies between the United States and Great Britain, the British representative, Sir Auckland Geddes, said that:

“What we have to avoid is national competition organized by government and supported by political action. For that form of competition I can see no need and much possible harm. If your government or mine were to begin to organize in behalf of exclusive economic advantage there would inevitably come a clash of interests that at least would strain the friendly relations between the countries.

“In my opinion it is absolutely necessary that there should be no suspicion on the part of either government that the other is secretly following such a policy.

Was there any wisdom in this suggestion, as applied to our international relationships? Should it be applied to our internal relations?

CHAPTER XXIX

A THINKING DEMOCRACY—A GOVERNMENT BY LAW AND NOT BY TEMPORARY MAJORITIES

THE Supreme Court of North Dakota has affirmed the right of the state to engage in the enterprises which have been proposed by the Non-partisan League, and following its usual practice of yielding to the state's discretion in such matters, the Supreme Court of the United States has affirmed that decision. Coöperative marketing also can be carried to extreme lengths and almost any kind of pooling may sooner or later be legalized.

The question then is one of expediency and of necessity. In the case of state-ownership and operation it is whether business and politics for any period of time can walk hand in hand, whether such enterprises can be made profitable and whether the people of the state, and especially the farmers, will be willing to pay the costs in added taxes and the squandering of the state's resources if the experiments prove to be failures. We mention the farmer particularly, because eighty-four per cent of the population of North Dakota is rural and the landed proprietors are those who really possess the vested interests and who ultimately must suffer if failure results. The question, after all, is an economic question, and it is much to be regretted that in its solution there has been so little sane discussion, so much politics, and so much crimination and recrimination. It is to be regretted, too, that throughout the controversy so determined an effort has been made to prevent

free and full debate and to stampede popular thought. It is to be regretted that by the partial control of the judiciary and the sweeping aside the forms of law and the constitutional safeguards, which after all were only created in order to give democracy an opportunity for a sober second thought, the leaders of the League have often been able to rush matters to an issue and to prevent the candid discussion which their measures certainly require. It is also to be regretted that in the contest class has been arrayed against class, and that the desire of a few to gain political power and to create a new political party has caused the League to join hands with the socialists and the agitators and to capitalize discontent. If it had not been for the desire for political power and the interests of the farmers alone had been considered, there would have been no call for the new party at all for in agricultural North Dakota the people of all classes are vitally interested in high prices and in honest grades.

North Dakota is a purely agricultural state and no fair minded man can fail to sympathize with its farmers in their desire for large grain elevators both within their own borders and at the terminal points of Minneapolis, St. Paul and Duluth. Nor, if he considers the interests of North Dakota alone, can any one fail to agree with the League's plan to mill as far as possible all of the grain of the state within its own territory, and by this means not only preserve for the use of the state the by-products and defective grains and seeds, all of which have a certain value, but to save the loss of the freight on the surplus to the terminal markets. All this is legitimate. In the past the millers and grain-dealers of the big centers could hardly be blamed for taking to themselves the profits which their enormous investments in machinery and their costly experiments had alone made possible—or in other

words for doing what every other business man does. Now that North Dakota is in a measure self-sufficient it in turn cannot be blamed for making the most of its opportunities and for seeking to retain for itself the profits which heretofore it has been compelled to share with outsiders. There has been altogether too much calling of names. On the one side the bogy of the "Robber Baron" and of "Big Business" has been too much emphasized and on the other the charge of "socialism." The question is purely a business question. It is one of expediency rather than of law or of right. The criticism of the leaders of the North Dakota movement should not be that they have advocated policies that are inherently wrong or un-American, but that they have sought to commit the state to vast and expensive enterprises, many of which we believe must prove unremunerative, by pressure rather than by reason and by abusing those who are opposed to them rather than by seeking to enlist their support and to overcome their arguments by free and friendly discussion. The most friendly of critics will also be compelled to admit that throughout the whole controversy untruths have been told and published and half truths have been continually stated. The theory of the League throughout indeed has been that the end justifies the means and that the freedom of the press and of the platform involves the freedom to misrepresent. This doctrine has been announced by Mr. Justice Robinson of the State Supreme Court in his judicial opinions and public letters. It has been adopted throughout by the League's leading papers, where even judicial opinions have been distorted and misquoted, and straw men have been erected and bombarded in order that conservative judges might be discredited.

We are a nation of property-owners and naturally conservative. North Dakota is a state of farmers who for

the most part own their lands in fee, and the landed proprietor least of all can afford to be a radical, or to lend his sanction to wild-cat schemes which, if unsuccessful, he must himself ultimately pay in increased taxes. If only he is given an opportunity to think, he will soon come to realize that necessarily the majority of the proposed state-owned industries must fail; that sooner or later every town and locality will be clamoring for its share of the state patronage, and that in order to gain votes and keep them, packing-plants and creameries and elevators, and banks and stores and other enterprises will be established in localities where the demand for them is not justified and will be entrusted to the management of ward-heelers and political organizers rather than to men who have been trained in the industries. He will soon come to realize that the success of every business depends on skillful and efficient management. He will come to realize the foolishness of entrusting his industrial future to political hucksters, who for the sake of votes will establish creameries in localities where the farmers raise only wheat and small grains and there is therefore no cream, and packing houses where there are no hogs or cattle.¹

The trouble with North Dakota is not that men are discussing economic questions nor even that to a certain degree they are indulging in state socialism. Give them the facts and give them time to think and after thinking they will act wisely and well. It is that a one-sided propaganda is being spread among them. It is that discontent

¹ In the year 1920 the so-called Equity Packing Plant at Fargo, North Dakota, which was capitalized at \$3,000,000 reported losses of over \$700,000. A few years before the writer asked an officer of the Armour Packing Company if a packing plant would pay in the state of North Dakota. The reply was brief but suggestive. It was, "If it would Armour and Company would have built one there long ago."

alone is being taught. It is that a class-appeal is being made, and that the farmers are being told that all who differ with their radical leaders are owned by the "Big Interests," and that therefore they must not pay any attention to them, or even listen to their side of the case. It is that they are being told there is a capitalistic conspiracy of the business and professional classes against the farmer and the toiler, and that he who works with his hands is alone the toiler.

But the greatest of all of the evils of the movement is the attempt that the League has made to control the courts and to elect judges who are committed to its policies, and who, being dependent for their election on the favors of the new political leaders, will to a greater or lesser extent be controlled by them. It lies in the un-American doctrine that the judge is not a judge but a representative, and that his function is not to administer the established law, leaving it to the legislatures and the constitutional amendments to change that law and to keep it responsive to the growing needs of the age; but that his function is to be a representative merely. It lies in the doctrine that it is the duty of the judge to keep his ears to the ground, and ever to remember that the primary elections will sooner or later come upon him, or that the recall may be instituted. It lies in the doctrine that it is his duty to say to himself, "Smith is right, and Jones is wrong, but the primary elections are near, and Jones can carry Brown County, and I therefore will decide for Jones"; to say "I know that I have sworn to support the constitution and I know that that statute is unconstitutional, but the primary elections are near, to-day the temporary majority favors that statute though it may oppose it to-morrow, and it will favor it until after the primary. I know on what side my bread is buttered.

I will therefore hold it to be constitutional." The danger lies in the fact that the public has been taught to believe that there is nothing improper in a judge promising in advance how he will decide his cases or in having a back door to his court.

We thank God that the great majority of our American judges are still brave enough to regard their oaths of office and to face political defeat rather than to prostitute their high callings. If, however, they ever come to yield to these demands then and at that moment will free government vanish from the face of America.

It is to be regretted that the real issues have been so beclouded. None of the proposed schemes of industry or of government are new, though to many who know nothing of the history of the past, they appear to be so.² The questions involved are largely economic questions; they are questions of expediency, and the real issue is whether these changes, if they are to be effected at all, are to be effected in a legal and orderly and constitutional and American manner, or by the force of an organized but uninformed and essentially lawless temporary majority. The issue is whether these changes are to be thought out, or are to be forced through. It is a contest between the American system of a government under the law, and the Prussian and Mexican system of a government by force and by intimidation.

Few of us realize how similar to the struggle in Europe is and must be the struggle in America itself, and in fact, the struggle in all free lands. Clouded as the issues may have been, we were certainly not fighting in Europe for territory or for power. We and the free peoples of the

²In England the middleman was legislated against during many centuries. Even as late as 1815 a man was convicted and sentenced to prison for having sold ten bushels of oats at an increase of ten cents a bushel.

earth were fighting for the recognition of one cardinal principle, and that was that there should be, as far as the nations of the earth were concerned, a government by law and not by men, by compact and by agreement and not by the heaviest battalions. We were insisting that, even as between nations, the honor of a gentleman should prevail. Slowly but surely we had to come to realize that the maintenance of civilization depends upon the obligation of the contract, and there could be no lasting peace unless the nations of the world were willing to enforce, by force if necessary, the doctrine that a treaty is a binding compact and obedience to international law, a moral obligation.

We had come to realize, and Germany herself must by this time have come to realize, that when she declared that a treaty was a scrap of paper and that a contract was of no binding force on him who was strong enough to break it, she placed herself outside of the pale of civilization. We shall be blind indeed if we fail to recognize that it is on this very principle that the permanence of America herself depends, and that underneath all of the progress of to-day there lurks a hidden danger, not so much of force or hatred as of misinformed enthusiasm, which may wreck our whole ship of state; and that in the cry of to-day for a purer democracy, a larger measure of popular control, for speedy progress and for an administration of the law which shall be free from delay and free from technicality, and above all, in the growing impatience with constitutional restraints, there may be hidden a popular impatience with, or at least a popular misunderstanding of, the principles of orderly government, which will prove disastrous.

It is to be regretted exceedingly that the public generally, including many college professors and otherwise well educated and thoughtful men, fail to realize that the con-

stitutions were not enacted and the courts entrusted with their enforcement in order that American progress might be defeated, but in order that there might be an opportunity for a sober second thought, and in order that we might not too hastily overthrow that which it has taken centuries of thought and laborious toil, yes, of heroism and martyrdom, to build up; in order, in short, that we might have thoughtful and sane and democratic progress and not the rule of the agitator and a destructive anarchy. There are too many men who think that civilization was born yesterday morning at ten o'clock. They have no realization of the centuries of struggle and experience that are represented by our constitutions and are crystallized in our institutions and in our common law.

It is to be regretted that not only has a socialist hierarchy been allowed to gain control of the agrarian movement of North Dakota, but to gain the control of the State University, the Agricultural College, the normal and the public schools, and even the circulating libraries of the State; and by this means to spread abroad its propaganda of distrust of government and of established institutions.

It is to be regretted that the proceeds of the magnificent land grants which were given to the State of North Dakota as a guarantee of democracy, and civilization, and opportunity for generations yet unborn, are in danger of being squandered and dissipated in a mad orgy of collective ownership, in order that the state-owned industries may be financed, and political hucksters may have jobs.

As patriotic citizens we cannot stand idly by and allow the proceeds of our magnificent school land-grants to be dissipated. We cannot permit the comradeship of America to be destroyed by class appeals. We must stand ready to defend our system of a government by law,

and by law alone, which has made America possible. We cannot allow our judges to become mere representatives. Neither can we tolerate a system which makes it impossible for them to retain that measure of independence which alone can make them respected, and which alone can make them respectable. We cannot allow judicial candidates in any state to go before conventions of any kind or degree and to pledge themselves to support their programs. Nor can we allow publications to be sent abroad which state that it is more necessary to elect a certain judge or a certain set of judges than it is to elect the governor himself because that judge or those judges have committed themselves to a certain program and that program must be carried through.

We have in our cosmopolitan America the representatives of every nation, of every class, of every religion and of every creed. Classes and nations and religions which in Europe have through the centuries been divided and through the centuries have been at war are here working out a common destiny and are building a great cosmopolitan civilization. The very fact that our heterogeneous people has in the past yielded such an implicit obedience to the mandates of the American courts, is in itself the highest monument to the wisdom and to the probity of the American judge. The mandates of our courts have settled boundary lines, have determined great social and industrial policies, and have controlled sovereign states. Yet we have practically no standing army. The court stenographer and the court marshal have been army enough. The mandates of our courts have been obeyed because our people as a whole have learned the art of self-government and of respect for the law, and because back of those mandates are the will, the strong right arms, and the bayonets if necessary, of millions of citizen

soldiers. We have obeyed these mandates because the American people have in the past trusted, and in the past have had reason to trust, in their judiciary, and have grasped the magnificent concept of the government of a free people by law and by law alone. This rule of law has been threatened in North Dakota and the threat is the greatest menace of the Non-partisan League.

No longer can we afford to play at politics or at government. Politics and government mean human destinies and human lives. Formerly our wants were but few. We had a whole continent to exploit. What did a panic or two matter, what did the ruin of even a state involve, when the boundless resources of a continent were untouched, the settler had merely to move a little further west and men and women were hardy enough for the enterprise? But the frontier has now been absorbed and the era of collectivism is now upon us. In the middle of the last century De Tocqueville suggested that the real test of American democracy would come when the public domain was exhausted. That time has now arrived. We are no longer a frontier people. Our states are themselves becoming empires in population and in importance. Every day the contest for existence is becoming keener and keener. We need wisdom, we need faith, we need comradeship. The lasting criticism of the leaders of the League will be that they have sought to destroy the faith and the comradeship of America.

To all those who seek in any state or nation to appeal to class prejudice and to raise the cry of North Dakota or any other state for the farmer or laboring-man or any other class of citizens; to all who denounce as reactionary those who still maintain that American democracy should know of no classes and no creeds, we recommend a careful study of the address of the British Ambassador, Sir

Auckland Geddes, which was delivered before the American Bar Association on August 25, 1920, and his trenchant suggestion:

“Let the Bolsheviki and their supporters in all lands prate as they will of reactionaries and imperialists. They themselves are the reactionaries. Their admitted doctrine is to establish a privileged class which they call the proletariat, but they mean by that term a select body of their own supporters. Their whole creed is to force on society a great idea which has been revealed to them and to them alone, and like it or dislike it, society is to swallow it whole—and that is nothing but pure theocracy. But remember that in the theocratic theory might is right because it is divine and apply that remembrance to the position of affairs to-day.”

INDEX

A

- Absent Voters' Law, nature of, 99, 167
 Alaska, the looting of, and the revolution of 1906, 30
Alert, Jamestown, on the coöperative movement, 153
 Allin, Governor Roger, 28
American Bolshevik, editorial on the socialist program, 15
 American Cotton Association, 238
 American Workers' Union, attempted collective bargaining agreement with the Non-partisan League, 144
 Amidon, Judge Charles F., statement of the grievances and demands of the North Dakota farmer, 40; opinion in coal mine seizure case, 140
 Anderson, C. W., on League's proposed collective bargaining agreement with the American Workers' Union, 144
 Anderson, John M., a worker with Loftus for the terminal elevator, 63
Appeal to Reason, endorsement of Non-partisan League, 7
 Attorneys, political control of, 167

B

- Bacon, Jerry, 70, 77
 Bankers' associations and the attempts at a compromise, 230, 236
 Bank of North Dakota, The, reasons for, 51; limitations of, 52; the initiative and, 88; establishment and power, 90; expediency of, 93; loans, 94, 95, 96; as a rural credit agency, 96, 238; treatment of the private banks, 96; favoritism of, 96; examination of books of, 97; attempt to

- induce Illinois Federation of Labor to become depositor, 146; complaints against the methods of, 209
 Barnes, Julius K., address of on coöperative exchanges and chambers of commerce, 55
 Barrett, C. S., on the coöperative movement, 236
 Bass, Jathro, an analogy, 26
 Bentall, J. O., criminal conviction of, 161
 "Big Business," the bogey of, 58, 72
 Birdzell, Luther E., 67, 68, 177; dissents in Scandinavian American Bank case, 189; the Youmans' Bank case, 193, 197
 Blaine, Governor, election of, 219
 Boards of trade, grievances against, 34, 36, 39; necessity for, 35
 Bonds, the floating of, 226, 235
 Bowen, A. C., a founder of the Non-partisan League, 60; the story of, 61
 Bruce, Andrew A., dissenting opinion on the power to amend the constitution by the initiative process, 171; and the Youmans' Bank case, 196; address before the South Dakota Bar Association on "A government by Law and not by Men," 227
 Burke, Governor Andrew H., veto of grain elevator bill, 28
 Burke, Governor John, election as governor due to the insurgent rebellion of 1906, 31
 Burnquist, Governor J. A. A., vote for, 214

C

- Call, G. E., estimate of profits of farmer, 156
 Capital, state, attempt to remove to New Rockford, 165

Capitalists, eastern, North Dakota's dependence upon, 24
 Caucus, secret, 65
 Christianson, Chief Justice A. M., dissents in Scandinavian American Bank case, 189; reelected in 1920 on the anti-Non-partisan ticket, 220
 Civil war, a threat of, 6, 131, 143; the danger of, 136, 139
 Claptrap, seductiveness of, 227
 Coal mines, act authorizing seizure of, 91; the seizure of, 131; the Kansas and the North Dakota methods compared, 132; opinion of Judge William Nuessle, 135; opinion of Judge Charles F. Amidon, 140; bill for state ownership of, 231
 Coates, David C., story of and services to the League, 65; a League dictator, 106
 Collins, Lieutenant Governor Louis L., vote for, 214
 Colorado, primaries of 1920, 214; fall elections of 1920, 219
 Compromise, attempts at, 223, 230, 235
 Conniston, the story of, an analogy, 26
 Constitution, amendments to, 103, 105; investment of school funds, 104; amendment by the initiative process, 104; dissenting opinion of Chief Justice Bruce denouncing methods pursued, 171
 Coöperative Movement, the, 17, 232, 245, 246, 248, 250, 258, 263, 264
 Cotton, pooling of, 236, 238
 Council of Defense, attempt to seize and farm vacant lands, 132
 Courts, attempts to control, 169, 170; selection of judges, 170; preëlection promises, 171
 Criticism of League's program a felony, 165

D

Democracy, a thoughtful, 273
 Dibell, Judge H. B., 216
 Direct action, the North Dakota theory of, 131
Dispatch, St. Paul, coöperation vs. socialism, 262

Disloyalty, charge of, 10, 153, 155, 157; no bar to holding office, 163; the farmer loyal, 155; loyalty inconsistent with socialism, 106, 154
 Drake, Benjamin, 63
 Drake, mill at, 226

E

Eight-hour labor day, attitude of non-partisans toward, 11, 146
 Elevators, terminal, of Society of Equity at St. Paul, 54, 56; constitutional amendments and, 57; report of special committee on, 58; defeat of bill for, 57, 58
 Elliott, Howard, 69
 Employers' Liability Act, 10; not applicable to the railroads or to the farms, 101
 Equity Coöperative Exchange, organization, 54; its terminal elevator, 54; attitude of Minneapolis Chamber of Commerce towards, 40, 54; legislation affecting, 55
 Equity, Society of and the Non-partisan League, 9

F

Farmers' coöperative elevators, become privately owned, 35, 54; difficulties in operation of, 35; treatment by chambers of commerce, 54
 Farmers' Terminal Packing Company of St. Paul, 257
 Federal Farm Loan Act, dissatisfaction of the farmer with, 50
 Federal Farm Loan Board, report of on agricultural loans, 51
 Federal Reserve Banks, loans to North Dakota, 52; use of, 264
 Force, the gospel of, 6, 131, 143
 Frazier, Governor Lynn J., a candidate for president of the United States, 6; story of, 70; and the Board of Regents case, 114; the gospel of force, 143; the pardon of Kate O'Hare, 156; the conscription of wealth, 156; reelected in 1920, 222
 Free love, the traveling library and the books of Ellen Key, 112

Fruit Growers' associations, 250, 258, 263

G

Geddes, Sir Auckland, 276

German-American boy, the loyalty of, 155

Germans, pro, and the League, 153, 236

Gilbert, Joseph, criminal conviction of, 160

Good Government League, 200

Grace, Judge Richard, statement of the grievances and demands of the North Dakota farmer, 42; misquotation of Senator E. F. Ladd, 44; the Youmans' Bank case, 193, 197

Grain grades, the complaints of the farmer, 36, 40; the millers' defense, 38, 48

Grain inspection, complaints against, 37; reports of inspectors, 39; address of Senator McCumber on, 45; the Non-partisan acts, 90, 98, 99

Gronna, Senator Ansel, nomination to Congress, 30; letter claiming that Townley was responsible for the defeat of the Gore bill, 210; defeated by E. F. Ladd, Non-partisan candidate for United States Senator, 222, 240

H

Hail insurance, 90

Hagan, Commissioner of Agriculture M., on the price of wheat and the high cost of patriotism, 157

Hall, Thomas, as a member of the Board of University and School Lands, removed from several boards, 154; revolt of, 200; becomes an opposition candidate for secretary of state, 211; elected in 1920, 222

Halldorson, Deputy Bank Examiner P. E., report on insolvency of Scandinavian American Bank of Fargo, 185

Hanna, Governor Louis B., election of, 57; and the Youmans' Bank case, 190

Hansborough, Senator, the McKenzie-McCumber-Hansborough autocracy, 29; the looting of Alaska and "*The Spoilers*," 30

Harding, President W. H., on the cooperative movement, 250; on tenant farming, 253; on the tariff, 254

Home-building Association, creation and powers, 91; compelled to suspend operations, 226, 236

Houston, D. F., the use of the federal reserve banks, 248

I

Iconoclast, 69

Independent Workers of the World and the farmer, 12; alliance with the non-partisans, 141; defeat of anti-I. W. W. legislation, 141

Independent Voters' League, the fall elections of 1920, 220, 222, 240

Industrial Commission, creation and powers, 90

Initiative, amendments to the constitution by, 104

Insurance, industrial, act not applicable to the farms, a means to create a fund for political purposes, 101; hail, 90

Interest rates, 32, 50

J

Johnson, Senator M. N., opposed to Professor Thayer's draft of a North Dakota constitution, 22

Johnson, M. P., rebellion of, 199

Judges, attacks upon, 165; as representatives rather than judicial officers, 171, 180, 185; the political control of, 270

Judicial despotism, 228

K

Kane, Dr. Thomas F., attempt to remove from presidency of state university, 116

Kansas coal strike of 1919, 132

Kelly, Congressman J. E., 200

Key, Ellen, books of, in the traveling library, 112

Kneeshaw, Judge, charge to the jury in the Youmans' Bank case, 192

Kositzky, State Auditor Carl, removed from several boards, 164; revolt, 200; becomes an opposition candidate for state auditor, 211; defeated at the primaries, 220

L

Labor laws, lack of any real necessity for, 101; failure to protect the farm laborer, 3; attitude of League toward, 12, 151

Ladd, Senator E. F., election to the United States Senate, 30; statements as to the milling value of wheat, 38; nominated against Senator Gronna, 212; elected in 1920, 222

Langer, William, as a member of the Board of University and School Lands, 95; removed from several boards, 164; action against the Scandinavian American Bank by, 186; revolt of, 200; becomes an opposition candidate for governor, 200, 211; platform, 213; vote at the primary, 220

La Follette, Senator Robert M., influence in North Dakota, 29; Loftus and the La Follette roll call, 58; a friend of Loftus and of the Equity terminal elevator, 63

La Moure, Judson, as a political boss, 26

Land, nationalization of, 2, 3, 14

Law, government by, 229, 264

Lever Act, 254

Le Sueur, Arthur, story of, and services to League, 66; attorney of the Independent Workers of the World, 66; attorney of Townley, 66; a League dictator, 106; states that the North Dakota program is socialistic, 142; address before the New York Civic Club on the defeat of the anti-I. W. W. laws, 142; attempt to contract with I. W. W. for North Dakota's labor supply, 143

Libraries, free traveling, Non-partisan control of, 111, 112; the

teachings of socialism and of free love, 112

Loftus, George H., fight for terminal elevator, 58, 63; the La Follette roll call, 58; as an orator, 62; tribute of William Langer to, 63

Loftus, O. E., League's bank examiner, 69; candidate for state treasurer on socialist ticket, 69

Lemke, William, story of, 66; services to the League, 67, 69; the Youmans' Bank case, 196

Lindbergh, C. A., 9, 160; vote for, 214

Linde, Henry, and the Youmans' Bank case, 194

Lyman, Charles A., address on the coöperative movement, 249

M

Mallon, George, vote for, 214

Marx, Carl, 3, 13

MacDonald, State Superintendent of Public Instruction N. C., teachers, examination questions of, 108; defeated by Miss Minnie E. Nielson, 117; extension department of the state university, 117

McCumber, Senator Porter J., speech on the grievances of the North Dakota farmer, 45

McKenzie, Alexander, as a political boss, 26-32, 240

Mail order houses, used as a club, 168

Middleman, the attitude of the Non-partisan League towards, 2, 4, 9, 10; and the Society of Equity, 9, 12; complaints against, 34, 149; attitude of coöperative movement towards, 242, 264

Mills, state owned, 48, 49; contribution of Minneapolis mills to the grain industry of the Northwest, 48, 49

Mills, Walter Thomas, and the Non-partisan program, 7; story of, 64; justification of the League's autocracy, 84; as a dictator, 106

Minneapolis Chamber of Commerce, nature and composition of, 37

Minnesota, primary elections of 1920, 214; general elections of 1920, 216

Monopoly, desire of socialists but not yet contemplated, 17

Montana, primaries of 1920, 214; fall elections of 1920, 219

Moore, Beecher, 69

N

National Non-partisan League, North Dakota home state of, 2, 6; Frazier as candidate for President of the United States, 6; autocracy in, 80; articles of association, 80; justification of autocracy, by Walter Thomas Mills, 84

Nelson, Theodore, organizes Independent Voters' League, 199

New Rockford, Capital' removal case, 171

New Times, editorial on the socialist program, 16

New York Call, The, endorsement of Non-partisan League, 7

New Zealand, example for North Dakota, 33; labor strikes of 1913, 64

Nielson, State Superintendent of Public Instruction Miss Minnie, attacks upon, 110, 164; reasons for attacks, 11; reelected in 1920, 222

Non-partisan Leader, The, Charles Edward Russell, editor of, 60; David C. Coates, editor of, and the election of the League's Supreme Court judges, 68

Non-partisan League, analysis of, 1; tenant farming, 1; the socialists, 1, 2, 3, 4, 7, 9; protest against marketing conditions, 2; as a national party, 2, 5, 6, 8, 11; the middleman, 2, 9; private ownership in land, 2, 13; and the laboring-man, 3; the Committee of Forty-eight, 3; the farmer, 4; the eight-hour day, 11, 146; the general unrest, 5; the Industrial Workers of the World, 5; its program, 4, 89; the gospel of force, 6; membership, 8; disloyalty of its leaders, 10, 106, 153-

158; the World War, 153; in Minnesota, 9; in Wisconsin, 9; in Montana, 9; and the Republican party, 9; and the Democratic party, 9; jealousy of the Society of Equity towards, 9; jealousy of some Socialist leaders towards, 9; birth of, 59; no need for as a new political party, 53; socialist leaders, 60, 69; compensations of and instructions to its organizers, 73; funds at the disposal of, 72; pledges required of candidates, 65; its paid membership, 72, 73; the use of the automobile and the aeroplane, 75; its autocratic methods, 76, 80, 86; its social viewpoint, 106; free love, 112; endorsement of by Working People's Non-partisan Political League of Minnesota, 15; charges of disloyalty against, 153; disloyalty no bar to holding office in, 163.

North Dakota, home center of a new political party, 2; area, 20; resources, 20; population, 20, 24; not illiterate, 17; per capita wealth, 19; not a state of tenant farmers, 21; production, 21; as a commercial province, of St. Paul and Minneapolis, 22; first constitutional convention, 22; the throne-room at St. Paul, 26; cannot be commercially self-sustaining, 52; not bankrupt, 230

Nuessle, Judge William L., opinion upon the seizure of the North Dakota coal mines, 135; reelection of, 140

Northwest Ordinance, the educational clause of and the League's proposed constitution, 105, 150

O

O'Connor, J. L. F. T., candidacy of for Governor in 1920, 220, 221, 222

O'Hare, Kate, Governor Frazier signs petition for pardon of, 156

P

Packard, F. E., estimate of state deficit, 207

Patriotism, socialism and, 106, 154
 Pledge, required of League's candidates, 65
 Plumb bill, endorsed by League, 152, 222
 Potato Exchange, Minnesota, 247
 Poverty, not cause of revolution, 19
 Precedents, Judge Robinson on value of, 228
 Preus, Governor J. A. O., primary vote for, 214; elected in 1920, 216; address on the cooperative movement, 256
 Price control, President Harding on, 252
 Prices, the fall of and the attempts at a compromise, 225; and the banks, 226
 Primary elections, system adopted, 31; social effect of, 32; the death knell of, 86
 Profiteers, A. C. Townley and, 159
 Prohibition, Justice Robinson's letter concerning, 181
 Public Education, League's attempt to control, 107; attempts at control by old-line politicians, 107; attempted control of school funds, 108; attempted control of social and economic instruction in public schools, 108; teachers' examination questions, 108; danger to national school land-grant fund, 118; school land-grant fund a trust fund, 123; duty of the Attorney General of the United States in relation thereto, 128; Board of Regents case, 114, 166; attempt to remove president of state university, 167
 Public printing act, adoption, 91; nature of, 101; the freedom of the press, 101

R

Railroad employees and the League, 152, 222
 Red-flag law, the anti, 87, 141
 Regents, the Board of Regents case and the power of arbitrary removal, 114, 166
 Rempfer, W. C., letter of on the non-partisans and socialism, 3; on socialism and opportunism, 14

Revolutions, of 1892, 28; of 1906, 28; of 1919, 200
 Robinson, James E., League's justice of the Supreme Court, 67; tax title lawyer, 68; candidate for Congress, 68; justification of League's autocracy, 78; preëlection promises, 170; dissenting opinion of Chief Justice Bruce in relation thereto, 171; opinion on the Teachers' Pension law, 175; letters to the press, 177, 181; methods pursued by, 180, 181; the Youmans' Bank case, 195; effect of decisions and writings of, 227
 Rural-Credit associations, complaint of lack of, 49
 Russell, Charles Edward, services to the League, 60; editor of *Non-partisan Leader*, 60, 106; story of, 64

S

Scandinavians, the Scandinavian Voters' League, 29; as Republicans, 31; in the revolution of 1906, 31
 Scandinavian American Bank, financial agency of the League, 185; deputy bank examiner declares it to be insolvent, 185; a receiver appointed by the banking board, 187, 236; the receiver dismissed by the Supreme Court on ex parte affidavits, 188
 Scandinavian Voters' League, part taken in the revolution of 1906, 29, 32
 Shipstead, Henrik, candidate for governor of Minnesota, 9; defeated at the primaries, 11; endorsed by the Working People's Non-partisan League at the November, 1920, election; defeated, 214
 Shortridge, Governor C. B., election, and the terminal elevator at Duluth, 28
 Socialism, and the Non-partisan League, 3, 7, 9, 10, 11, 13, 14; the League as a rival to the Socialist Party, 7, 218; the term defined, 13; socialism and the

farmer, 11, 13; the modern socialist an opportunist, 14, 15; a farmers' monopoly the hope of the socialists, 16; and patriotism, 106, 154; the position of the socialists in the campaign of 1920, 218
 Socialist party of Minnesota, 15, 16
 Sorley, John, part taken in the revolution of 1906, 29
 South Dakota, the fall elections of 1920, 219
 Spalding, Burleigh F., and the revolution of 1906, 28
 State sheriff, nature of the act creating, 92; a medieval survival, 102; the reasons for and objections to, 102, 103; its repeal on a referendum, 103
 Steen, John, elected state treasurer on the anti-Non-partisan ticket in 1920, 212
 Supreme Court of North Dakota, its League members, 67; Board of Regents case, 117; effect of decisions of, 227. See also "Judges" and "Courts."
 Supreme Court of the United States, and state-ownership, 266
 Surrat, A. J., report on North Dakota's agricultural products, 21

T

Tariff, the, 254
 Taxation, excessive, 206, 208
 Tax commission, reduced to one member, 93
 Teachers, examination questions of, 108; Justice Robinson and the teachers' pension law, 175; salaries in arrears, 224
 Tenant farming, not cause of the rise of the League, 1; President Harding on, 253
 Terrorism, political and legislative, 164, 171; social and business, 168
 Thomason, O. M., remarks on Non-partisan program at Chicago convention of Committee of Forty-eight, 3
 Thompson, O. M., 69
 Totten, Reverend George, president of Board of Administration,

69; desire for socialist instruction in schools, 108; and the traveling library, 111; attempt to remove the president of the state university, 116
 Townley, A. C., connection with the socialists, 2, 10; story of, 60; as a founder of the League, 61; as an orator, 62; services to the League, 69; justification of autocracy, 76, 79; chairman of executive committee of National Non-partisan League, 81; and the World War, 157, 159; convicted of violating Minnesota Espionage Act, 161; threats against business men, 168

U

United Grain Growers' Association, 249
 University and school lands, board of, powers, 94

V

Villard, Henry, the first North Dakota constitutional convention, 22

W

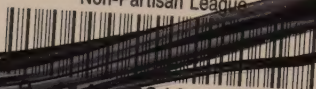
Wheat, cost of production of, estimate of Professor Call, 156; estimate of Commissioner Hagan, 157; Townley and the price of, 210
 Williams, J. Arthur, deserts the Socialist party for the League, 7
 Wisconsin, the fall elections of 1920, 219
 Women voters, 216
 Wood, Fred B., a founder of the League, 61; story of, 62
 Working People's Non-partisan Political League of Minnesota, declaration of principles, 146; endorsement of the Farmers' Non-partisan League of North Dakota, 151; endorses Shipstead, 218
 World War, attitude of leaders of League towards, 10, 153; Gov-

ernor Frazier and, 155, 161; M. Hagan and, 157; Charles A. Lindbergh and, 160; Townley and, 157, 159, 161; Joseph Gilbert and, 160; J. O. Bentall and, 161; League's declarations concerning, 162.

Y

Youmans' Bank case, 190
Young, Congressman George M., advocate of Equity terminal elevator and supporter of Loftus, 63; reelected in 1920, 222

322.30973B886n
Non-Partisan League



14 00101336 5

322.30973
B886n

137143

Bruce, A. A.
Non-partisan league.

322.30973
B886n

137143

Bruce, A. A.
Non-partisan league.

12 01 0 C COHRS C

WITHDRAWN

DREW UNIVERSITY LIBRARY
MADISON, NEW JERSEY

